

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 33] नई दिल्ली, अगस्त 8—अगस्त 14, 2004, शनिवार/श्रावण 17—श्रावण 23, 1926
No. 33] NEW DELHI, AUGUST 8—AUGUST 14, 2004, SATURDAY/SRAVANA 17—SRAVANA 23, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—~~खण्ड 3~~ (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 29 जुलाई, 2004

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 29th July, 2004

का.आ. 1952.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री आर. के. शाह, अधिवक्ता को विचारण न्यायालयों और अपील/पुनरीक्षण न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामला सं. आरसी. 1 (एस)/2004-एससीबी/मुंबई (बिल्कीस सामूहिक बलात्कार और हत्याकांड) के अभियोजन और गुजरात राज्य जिसमें पूर्वोक्त धारा के उपबंध लागू होते हैं, में विधि द्वारा स्थापित न्यायालयों में इस मामले से उद्भूत किन्हीं अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में, नियुक्त करती है।

[सं. 225/22/2004-ए.पी.डी.-II]

भाष्कर खुल्बे, निदेशक

S.O. 1952.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri R.K. Shah, Advocate as Special Public Prosecutor for conducting prosecution in case No. RC-1(S)/2004-SCB/Mumbai (Bilkis Gang Rape and Murder Case) instituted by the Delhi Special Police Establishment in trial courts and appellate/revisonal courts or any other matters arising out of the case in the courts established by law in the State of Gujarat to which provisions of the aforesaid section apply.

[No. 225/22/2004-AVD-III]

BHASKAR KHULBE, Director

नई दिल्ली, 29 जुलाई, 2004

का.आ. 1953.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं. एचडी 102 पीसीआर 2004 दिनांक 23-6-2004 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से (1) श्री आर. श्रीनाथ, शाखा प्रबंधक, यूनियन बैंक ऑफ इंडिया, ट्रिप्लिकेन शाखा, चेन्नई (2) श्री टी. नागार्जुन, लेखाकार, यूनियन बैंक ऑफ इंडिया, ट्रिप्लिकेन शाखा चेन्नई और (3) श्रीमती ए. अनिता कुमारी, मालकिन, मैसर्स आनंद एजेंसिज, चेन्नई और किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध वर्ष 2003-2004 के दौरान यूनियन बैंक ऑफ इंडिया को 628 लाख रुपये का धोखा देने के लिए भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी संपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) की धारा 13 (2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों और उक्त अपराधों से संबंधित अथवा संसक्त तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/55/2004-ए.वी.डी.-II]

भाष्कर खुल्बे, निदेशक

New Delhi, the 29th July, 2004

S.O. 1953.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of State Government of Karnataka, vide Notification No. HD 102 PCR 2004 dated 23-6-2004, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under section 120-B read with 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and under section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) against (1) **Shri R. Srinath, Branch Manager, Union Bank of India, Triplicane Branch, Chennai** (2) **Shri T. Nagarajan, Accountant, Union Bank of India, Triplicane Branch, Chennai** and (3) **Smt. A. Anitha Kumari, Proprietress of M/s. Anand Agencies, Chennai for defrauding Union Bank of India to the tune of Rs. 628 lakh during the year 2003-2004 and any other public servants or persons in relation to, or in connection with the said offences, and any other offences committed in the course of the same transaction or arising out of the same facts.**

[No. 228/55/2004-AVD-III]

BHASKAR KHULBE, Director

नई दिल्ली, 30 जुलाई, 2004

का.आ. 1954.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली के अधिवक्ता

श्री सी. सहाय को केन्द्रीय अन्वेषण ब्यूरो से संबंधित मामलों के विशेष न्यायिक मैजिस्ट्रेट, लखनऊ और केन्द्रीय अन्वेषण ब्यूरो के विशेष न्यायाधीश, लखनऊ के न्यायालयों में मामला सं. आर.सी. 2 (एस)/99/एस आई सी IV/नई दिल्ली (बबलू श्रीवास्तव के मामले में) के तथा अपीलीय अथवा पुनरीक्षण न्यायालय में अपीलों, पुनरीक्षणों और किसी अन्य न्यायालय में उनसे संबंधित अथवा आनुषंगिक किसी अन्य मामले के संचालन के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/5/2004-ए.वी.डी.-II]

भाष्कर खुल्बे, निदेशक

New Delhi, the 30th July, 2004

S.O. 1954.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri C. Sahay, Advocate Delhi as Special Public Prosecutor for conducting case No. RC-2(S)/99-SIC. IV/New Delhi (Bablu Srivastava Case) in the Court of Special Judicial Magistrate of CBI cases, Lucknow and Special Judge CBI, Lucknow and appeals, revision and any other matter connected therewith or incidents thereto in the appellate/revision or in any other court.

[No. 225/5/2004-AVD-III]

BHASKAR KHULBE, Director

वित्त मंत्रालय

(राजस्व विभाग)

सीमाशुल्क आयुक्त का कार्यालय

कोचिन, 10 अक्टूबर, 2003

सं. 02/2003

का.आ. 1955.—सीमाशुल्क अधिनियम, 1962 (1962 का 52) की धारा 8(ए) के अन्तर्गत मुझे प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.वी. नाईक, सीमाशुल्क आयुक्त, कोच्चि एतद्वारा विशेष आर्थिक क्षेत्र, काक्कनाडु, कोच्चि में स्थित कंटेनर कोरपोरेशन आफ इंडिया लिमिटेड के कंटेनर फ्रेंड स्टेशन को कोचिन विशेष आर्थिक क्षेत्र के अन्तर्गत कार्य कर रहे किसी भी यूनिट में प्रयोग किए जा रहे या वहां से किसी गेट वे पत्तन/हवाई अड्डा में यानांतरित किए गए आयातित माल को उतारने के लिए और यानांतरित किए जाने वाले माल को चढ़ाने के लिए सीमाशुल्क अधिनियम, 1962 के सम्बन्धित प्रावधानों और जारी किए गए अन्य अनुदेशों के कड़ाई से पालन की शर्त पर स्वीकार करते हैं।

सीमाशुल्क अधिनियम, 1962 की धारा 8 (बी) के अन्तर्गत मैं विशेष आर्थिक क्षेत्र, कोचिन में स्थित और 504.12 वर्ग मीटर नाप वाले उपर्युक्त कंटेनर फ्रेंड स्टेशन सीमाशुल्क क्षेत्र की सीमाओं को निम्नानुसार विनिर्दिष्ट करता हूँ।

उत्तरी सिरा	:	दवाखाना ब्लॉक
दक्षिणी सिरा	:	खाली जगह
पूर्वी सिरा	:	अंहाता दीवार
पश्चिमी सिरा	:	कंटेनर बे

[फा. सं. एस-20/07/2003-आई. एंड बी. कस]

जी.वी. नाईक, सीमाशुल्क आयुक्त

MINISTRY OF FINANCE
(Department of Revenue)
OFFICE OF THE COMMISSIONER OF CUSTOMS
Kochi, the 10th October, 2003
No. 02/2003

S.O. 1955.—In exercise of the powers conferred on me under Section 8(a) of the Customs Act, 1962 (52 of 1962), I, G. V. Naik, Commissioner of Customs, Kochi, hereby approve the Container Freight Station located at Special Economic Zone, Kakkanad, Kochi of Container Corporation of India as a place for unloading of import goods and for loading of export goods, transshipped from or to be transshipped to any gateway port/airport for use by or from any unit operating within the Cochin Special Economic Zone subject to strict observance of the relevant provisions of the Customs Act, 1962 and other instructions issued, in this behalf, by the Government of India or Commissioner of Customs from time to time.

Further under Section 8 (b) of the Customs Act, 1962, I hereby specify the limits of the Customs Area comprising the above Container Freight Station at SEZ, Kochi and measuring 504.12 sq. m. as under :

1. North Side : Dispensary Block
2. South Side : Vacant Land
3. East Side : Compound Wall
4. West Side : Container Bay

[F. No. S-20/07/2003-I & B. CUS]
G.V. NAIK, Commissioner of Customs

सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क
मुख्य आयुक्त का कार्यालय
कोयम्बतूर, 19 जुलाई, 2004
संख्या.1/2004-सीमा शुल्क (एन.टी.)

का. आ. 1956.—यथा संशोधित अधिसूचना सं. 14/2002 सी. शु. (एन.टी.), दिनांक 7-3-2002 के साथ पठित सीमा शुल्क अधिनियम, 1962 की धारा 152 खण्ड (ए) के अंतर्गत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के दिनांक 1 जुलाई, 1994 के अधिसूचना संख्या. 33/94-सीमा शुल्क (एन.टी.) के अधीन अधोहस्ताक्षरी को प्रत्ययोजित शक्तियों का प्रयोग करते हुए मैं, जे.एम.के. शेखर, मुख्य आयुक्त, सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क कोयम्बतूर एतद्वारा तमिलनाडु राज्य, दिण्डिगल जिला, दिण्डिगल तालूक के पल्लपट्टी ग्राम को सीमा शुल्क अधिनियम, 1962 की धारा 9 के अंतर्गत निजी भाण्डागार को लाइसेन्स देने के उद्देश्य से भाण्डागार स्टेशन के रूप में घोषित करता हूँ।

[फाइल सं.- VIII/40/1/2003 सी.शु.(मु.आ.का.)]
जे.एम.के. शेखर, मुख्य आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF
CUSTOMS AND CENTRAL EXCISE
Coimbatore, the 19th July, 2004
No. 1/2004-CUSTOMS(NT)

S.O. 1956.—In exercise of the powers delegated to the undersigned vide Notification No. 33/94-Customs (NT) dated 1st July, 1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi under Clause (a) of Section 152 of the Customs Act, 1962, read with Notification No. 14-2002-Cus (NT) dated 7-3-2002

as amended, I, J.M.K. Sekhar, Chief Commissioner of Customs and Central Excise, Coimbatore hereby declare Pallapatti Village, Dindigul Taluk in the District of Dindigul, State of Tamil Nadu, to be a warehousing station under Section 9 of the Customs Act, 1962 for the purpose of licensing of Private Bonded Warehouse.

[F. No. VIII/40/1/2003-Cus. (CCO)]
J.M.K. SEKHAR, Chief Commissioner
आदेश

नई दिल्ली, 2 अगस्त, 2004

का.आ. 1957.—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अंतर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/03/2004-सी.यू.एस. VIII, दिनांक 30-06-2004 को जारी किया और यह निर्देश दिया कि श्री मुकेश कुमार गुप्ता सुपुत्र श्री बी.एल. गुप्ता, निवास 55 बी, बी.ए. ब्लॉक, अशोक विहार, फेस-1, दिल्ली-110 052 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, तिहाड़, नई दिल्ली में अभिरक्षा में रखा जाए ताकि उन्हें भविष्य में चीजों की तस्करी का दुष्प्रेरण करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रहा है जिससे यह आदेश निष्पादित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुलिस आयुक्त, दिल्ली के सम्मुख उपस्थित हो।

[फा. सं. 673/03/2004-सी.यू.एस. VIII]
एन.एम. कृष्णन, उपसचिव (कोफेपोसा)
ORDER

New Delhi, the 2nd August, 2004

S.O. 1957.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued Order F. No. 673/03/2004-Cus. VIII dated 30-6-2004 under the said sub-section directing that Shri Mukesh Kumar Gupta S/o Shri B.L. Gupta, R/o 55B, BA Block, Ashok Vihar, Phase-I, Delhi-110 052 be detained and kept in custody in the Central Jail, Tihar, New Delhi with a view to preventing him from abetting the smuggling of goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/03/2004-Cus. VIII]
N.M. KRISHNAN, Dy. Secy. (COFEPOSA)

आर्थिक कार्य विभाग

बैंकिंग प्रभाग

(प्रादेशिक ग्रामीण बैंक अनुभाग)

नई दिल्ली, 2 अगस्त, 2004

का.आ. 1958.— प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1988 के अधिनियम 66 तक यथा संशोधित) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, राष्ट्रीय कृषि और ग्रामीण विकास बैंक तथा भारतीय स्टेट बैंक से परामर्श करने के पश्चात् एतद्वारा भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) के 30 नवम्बर, 1983 के भारत के राजपत्र, भाग-II, खंड-3, उपखंड (ii) में प्रकाशित दिनांक 29 नवम्बर, 1983 की अधिसूचना सं० का०आ० 868 (अ) में निम्नलिखित संशोधन करती है।

उक्त अधिसूचना में “उस स्थान के रूप में पासीघाट जहां अरुणाचल प्रदेश ग्रामीण बैंक का प्रधान कार्यालय होगा” शब्दों के स्थान पर “उस स्थान के रूप में ईटानगर जहां अरुणाचल प्रदेश ग्रामीण बैंक का प्रधान कार्यालय होगा” शब्द प्रतिस्थापित किए जाएंगे।

[सं० एफ-7(3)/2004-आरआरबी]

जी०बी० सिंह, अवर सचिव

टिप्पणी : मूल नियम दिनांक 29 नवम्बर, 1983 की अधिसूचना सं० का०आ० 868(अ) के तहत प्रकाशित किए गए थे।

Department of Economic Affairs

Banking Division

Regional Rural Banks Section

New Delhi, the 2nd August, 2004

S.O. 1958.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government after consultation with the Reserve Bank of India, National Bank for Agriculture and Rural Development and the State Bank of India hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance, Department of Economic Affairs (Banking Division), number S.O. 868(E) dated the 29th November, 1983 published in Gazette of India, Part II, Section 3, sub-section (ii) dated the 30th November, 1983.

In the said notification, for the words “Pasighat as the place where Arunachal Pradesh Rural Bank shall have its head office” the words “Itanagar as the place where Arunachal Pradesh Rural Bank shall have its head office” shall be substituted.

[F. No. 7(3)/2004-RRB]

G.B. SINGH, Under Secy.

Note : The principal rules were published vide notification number S.O. 868(E) dated the 29th November, 1983.

(व्यय विभाग)

नई दिल्ली, 5 अगस्त, 2004

का.आ. 1959.— केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग कर नीचे की सारणी के स्तंभ (1) में उल्लिखित अधिकारी को, जो सरकार का एक राजपत्रित अधिकारी है, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों की बाबत अपनी-अपनी अधिकारिता की स्थानीय परिसीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का पालन करेगा।

सारणी

अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय परिसीमाएं
(1)	(2)
वरिष्ठ उप महालेखाकार या उस दशा में जहाँ ऐसा कोई वरिष्ठ उप-महालेखाकार नियुक्त नहीं किया गया है, वहाँ उप-महालेखाकार (प्रशासन-1), कार्यालय प्रधान महालेखाकार (लेखा-परीक्षा)-I, कर्नाटक, बेंगलूर, कार्यालय प्रधान महालेखाकार (लेखा-परीक्षा)-I, तमिलनाडु एवं पांडिचेरी, कार्यालय प्रधान महालेखाकार (लेखा-परीक्षा)-I, तमिलनाडु एवं पांडिचेरी, कार्यालय प्रधान महालेखाकार (लेखा-परीक्षा)-I, तमिलनाडु एवं पांडिचेरी, शाखा तथा कार्यालय प्रधान महालेखाकार (लेखा-परीक्षा), केरल, तिरुवनन्तपुरम।	प्रधान महालेखाकार (लेखा-परीक्षा)-I, कर्नाटक, बेंगलूर, प्रधान महालेखाकार (लेखा-परीक्षा) I, तमिलनाडु एवं पांडिचेरी, चैन्नई, तथा प्रधान महालेखाकार (लेखा-परीक्षा) केरल, तिरुवनन्तपुरम के प्रशासनिक नियंत्रण के अधीन परिसर।

[फा. सं. ए-11013/1/04-ई. जी.]

महेन्द्र कुमार, उपसचिव

(Department of Expenditure)

New Delhi, the 5th August, 2004

S.O. 1959.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being a gazetted officer of the Government to be the Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act,

within the local limits of his respective jurisdiction in respect of public premises specified in corresponding entry in column (2) of the said Table.

TABLE

Designation of the Officer	Categories of the Public premises and local limit of jurisdiction
(1)	(2)
Senior Deputy Accountant General or in case where no Senior Deputy Accountant General is so appointed, Deputy Accountant General (Administration), O/o The Principal Accountant General (Audit)-I, Karnataka, Bangalore; O/o The Principal Accountant General (Audit)-I Tamilnadu & Pondicherry, Chennai; O/o The Principal Accountant General (Audit)-I Tamil Nadu and Pondicherry, Pondicherry Branch and O/o The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.	Premises under the Administrative Control of Principal Accountant General (Audit)-I, Karnataka, Bangalore, Principal Accountant General (Audit)-I Tamilnadu & Pondicherry, Chennai and Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
[File No. A-11013/1/04-EG] MAHENDRA KUMAR, Dy. Secy.	

विद्युत मंत्रालय

नई दिल्ली, 1 जुलाई, 2004

का.आ. 1960.— केन्द्रीय सरकार, राजभाषा (संघ के सासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में सार्वजनिक क्षेत्र उपक्रम पावरग्रिड कारपोरेशन ऑफ इंडिया लि०, गुडगांव के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :

1. पावरग्रिड कारपोरेशन ऑफ इंडिया लि०,
किशनपुर उप केन्द्र कार्यालय,
800/400/220 के०वी० उप केन्द्र,
किशनपुर-मनवाल वाया दंसाल,
जिला : जम्मू (जे० एंड के०)-181224
2. पावरग्रिड कारपोरेशन ऑफ इंडिया लि०,
हिसार उप केन्द्र कार्यालय,
400/220 के०वी० उप केन्द्र,
ग्राम एवं पो० मैय्यर,
जिला : हिसार (हरियाणा)-125044.

3. पावरग्रिड कारपोरेशन ऑफ इंडिया लि०,
नालागढ़ उप केन्द्र कार्यालय,
400/220 के०वी० उप केन्द्र,
ग्राम एवं पो० : रेरू,
नालागढ़, जिला : सोलन (हि०प्र०)-174101.
4. पावरग्रिड कारपोरेशन ऑफ इंडिया लि०,
विंध्याचल एचवीडीसी बीटीबी,
पो०बॉ० 12, पो० विंध्यानगर,
जिला सीधी-486885 (म०प्र०)।
5. पावरग्रिड कारपोरेशन ऑफ इंडिया लि०,
400/220 के०वी० सब स्टेशन,
4 कि०मी०, अलवर रोड, भिवाड़ी।

[सं० 11017/1/2004-हिंदी]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 1st July, 2004

S.O. 1960.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (use for official purposes of the union) Rules, 1976 the Central Government hereby notifies the following offices of Public Sector Undertaking under the administrative control of Powergrid Corporation of India Ltd., Gurgaon, the staff whereof have acquired 80% working knowledge of Hindi :

1. Powergrid Corporation of India Ltd.,
Kishenpur (S/S) Office,
800/400/220 K.V. Sub Station,
Kishenpur-Manwal Via Dansal,
Distt : Jammu (J & K)-181224.
2. Powergrid Corporation of India Ltd.,
Hisar (S/S) Office,
400/220 K.V. Sub Station,
Vill & P.O. Mayyar,
Distt : Hisar (Haryana)-125044.
3. Powergrid Corporation of India Ltd.,
Nalagarh (S/S) Office,
400/220 K.V. Sub Station,
Vill & P.O. : Reru,
Nalagarh, Distt. : Solan (H.P.) 174101.
4. Powergrid Corporation of India Ltd.,
Vindhyachal HVDC BTB,
Post Box 12, Post Vindhyanagar,
Distt. Seeghi-486885 (M.P.).
5. Powergrid Corporation of India Ltd.,
400/220 K.V. Sub Station,
4 km, Alwar Road, Bhiwadi.

[No. 11017/1/2004-Hindi]

AJAY SHANKAR, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 30 जुलाई, 2004

का.आ. 1961.— भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :—

अनुसूची

भारतीय मानक सं.	भाग	अनु.	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई दर स्लेब 1	इकाई दर स्लेब 1 में इकाइयाँ	इकाई दर स्लेब 2 में इकाइयाँ	इकाई दर स्लेब 2 में इकाइयाँ	इकाई दर शेष	प्रचालन तिथि
						बड़े पैमाने पर	छोटे पैमाने पर						
						पर	पर						
13334	1	0	1992	मलाई मुक्त दूध पाउडर	एक टन	24000	17000	21.6	1000	14.4	1000	7.2	20020301
9283	0	0	1995	निमज्जनीय पम्पसेटों के लिए मोटरों	1 कि.वा.	17000	12000	1.45	5000	1.1	10000	0.75	20020401
13010	0	0	2002	ए सी वाट घंटामीटर वर्ग 0.5, 1 और 2	एक नग	42000	35000	0.35	100000	0.25	200000	0.15	20020401
13753	0	0	1993	E>10% (ग्रुप बी III) जल अवशोषण वाली डस्ट प्रैस्ट सिरेमिक टाइलें	10 वर्ग मीटर	60000	50000	3	20000	18	20000	1.2	20020401
13755	0	0	1993	3%<E<6% (ग्रुप बी IIa) जल अवशोषण वाली डस्ट प्रैस्ट सिरेमिक टाइलें	10 वर्ग मीटर	60000	50000	3	20000	18	20000	1.2	20020401

[सं. के प्र वि-IV/13 : 10]

एस.के. चौधरी, उप महानिदेशक (मुहर)

MINISTRY OF CONSUMERS AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 30th July, 2004

S.O. 1961.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marketing fees for the products given in the schedule :

SCHEDULE

IS. No.	PT.	Sec.	Year	Product		Unit Min. Mkt. Fee		Unit Rate Slab 1	Units in Slab 1	Unit Rate Slab 2	Units in Slab 2	Unit Rate Rest	Enforce ment Date
						Large Scale	Small Scale						
13334	1	0	1992	Skim Milk Powder	One Ton	24000	17000	21.6	1000	14.4	1000	7.2	20020301
9283	0	0	1995	Motors for Submersible pumpsets	1KW	17000	12000	1.45	5000	1.1	10000	0.75	20020401
13010	0	0	2002	AC watt-hour meters class 0.5, 1 and 2	One piece	42000	35000	0.35	100000	0.25	200000	0.15	20020401
13753	0	0	1993	Dust-pressed Ceramic Tiles with water absorption of E>10% (group III)	10Sq. M.	60000	50000	3	20000	1.8	20000	1.2	20020401
13755	0	0	1993	Dust-pressed Ceramic Tiles	10Sq. M.	60000	50000	3	20000	1.8	20000	1.2	20020401

[No. CMD-IV/13 : 10]

S. K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 30 जुलाई, 2004

का.आ.1962.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :—

अनुसूची

भारतीय मानक सं.	भाग	अनु.	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क		इकाई	स्लैब 1 में	इकाई	प्रचालन
						बड़े पैमाने पर	छोटे पैमाने पर	दर स्लैब 1	इकाइयाँ	दर शेष	तिथि
1	2	3	4	5	6	7	8	9	10	11	12
01320	0	0	1988	बेकरी खमीर	एक टन	20000	14000	28.8	5000	14.4	20020301
02185	3	0	1984	कंक्रीट चिनाई इकाइयाँ भाग 3 ऑटोक्लेव में पके कंक्रीट के सेल्युलर ब्लॉक	10 क्यू. एम.	20000	14000	14.4	1000	7.2	20020301
03470	0	0	1996	हैक्सन खाद्य ग्रेड	एक किलो लीटर	27000	20000	1.8	10000	1.44	20020301
06803	0	0	1972	विशेष अमेच केनवस और मोटा सूती कपड़ा	100 वर्ग मी.	26000	18000	7.2	2000	2.88	20020301
09681	0	0	1980	प्रसाधन सामग्री उद्योग के लिए स्टीयरिक अम्ल	एक टन	17000	12000	43.2	500	28.8	20020301
10001	0	0	1981	सामान्य प्रयोजनों के लिए एक समान गति वाले संपीडन प्रचालित (डीजल) इंजनों हेतु कार्यकारिता अपेक्षाएं	एक इंजन	24000	17000	14.4	1500	8.64	20020301
10109	0	0	2002	तेल दाब स्टोव ऑफसेट बर्नर टाइप	एक नग	27000	20000	0.22	50000	0.14	20020301
11170	0	0	1985	कृषि प्रयोजनों (20 किवा तक) के लिए एक समान गति वाले संपीडन प्रचालन (डीजल इंजनों) की कार्यकारिता अपेक्षाएं	एक इंजन	24000	17000	14.4	1500	8.64	20020301
00814	0	0	1991	हस्त धातु आर्क वेल्डिंग के लिए आवृत्त कार्बन और कार्बन मैगनीज इस्पात इलेक्ट्रोड	1000 नग	64000	48000	1.45	60000	0.75	20020401
01163	0	0	1992	चोकलेट	एक टन	36000	29000	144	500	108	20020401
01164	0	0	1986	कोको पाउडर	एक टन	36000	29000	108	500	86.4	20020401
02026	1	0	1977	पावर ट्रांसफार्मर	1 केवीए	33000	26000	1.1	30000	0.6	20020401
03196	1	0	1992	अल्पदाब द्रवमान गैसों के लिए 5-लीटर से अधिक जल क्षमता वाले वेल्डित अल्प कार्बन इस्पात के सिलिण्डर	एक सिलिण्डर	120000	84000	2.9	50000	2.2	20020401
03196	2	0	1992	अल्पदाब द्रवमान गैसों के लिए 5-लीटर से अधिक जल क्षमता वाले वेल्डित अल्प कार्बन इस्पात के सिलिण्डर— एलपीजी सिलिण्डरों के अलावा अन्य द्रवणीय गैसों के लिए	एक सिलिण्डर	120000	84000	2.9	50000	2.2	20020401

1	2	3	4	5	6	7	8	9	10	11	12
07138	0	0	1973	फर्नीचर के लिए प्रयुक्त इस्पात की नलियाँ	एक टन	24000	17000	5.8	3000	2.9	20020401
07142	0	0	1995	अल्पदाब द्रवणीय गैसों के लिए 5-लीटर से अनधिक जलक्षमता वाले वेल्डित अल्प कार्बन इस्पात के सिलिण्डर	एक सिलिण्डर	120000	84000	2.2	50000	1.45	20020401
07809	3	1	1986	विद्युत प्रयोजन के लिए दाब संवेदी आसंजक टेप भाग 3 एकल सामग्री	100 रोल	20000	14000	0.75	5000	0.45	20020401
08291	0	0	1976	फेनथोएट ईसी	100 लीटर	29000	22000	28.8	सभी	21.6	20020401
08654	0	0	2001	स्वचालित हाईड्रोलिक ब्रेक तरल, भारी ड्यूटी	1 किलो लीटर	33000	26000	72	1000	43.2	20020401
11217	0	0	1984	वस्त्रोद्योग के लिए नील	एक टन	26000	18000	57.6	400	28.8	20020401
11501	0	0	1986	कृषि प्रयोजनों के लिए साफ, ठंडे ताजे पानी के मोनोसेट पम्प	एक नग	24000	17000	14.4	1500	8.65	20020401
12406	0	0	2003	सामान्य प्रयोजन के लिए मध्यम घनत्व के फाइबर बोर्ड	एक टन	36000	29000	14.4	2500	7.2	20020401
13133	0	0	1991	क्लोरोथिओनिल डब्ल्यू पी	एक किग्रा.	30000	24000	1.45	100000	0.75	20020401
13403	0	0	1992	एनिलोफॉस ई सी	100 लीटर	29000	22000	50.4	1000	36	20020401
14300	0	0	1995	अजाडिरेक्टिन युक्त नीम आधारित पायनीय सांद्र	100 लीटर	72000	60000	72	1000	36	20020401
01151	0	0	1969	परिष्कृत चीनी	एक टन	41000	34000	40	5000	20	20020513
05982	0	0	2003	रोपित श्वेत चीनी	एक टन	41000	34000	40	5000	20	20020513
04684	0	0	1975	खाने योग्य मूँगफली का आटा (एक्सपोलरिस्टेड)	एक टन	40000	33000	20	2000	10	20020823
09766	0	0	1992	नम्य पीवीसी कम्पाउंड	एक टन	49000	41000	50	इकाइयाँ 1000	25	20020823
01180	1		1989	तीन फेजीय वितरण ट्रांसफार्मर	1 केवीए	25000	18000	0.90	इकाइयाँ 30000	0.48	19990413

[सं. के प्र वि-4/13 : 10]

एस के. चौधरी, उप महानिदेशक (मुहर)

New Delhi, the 30th July, 2004

S.O. 1962.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian Standards, hereby notifies the Marketing fees for the products given in the schedule :—

SCHEDULE

IS. No.	PT.	Sec.	Year	Product	UNIT	Min. Marking Fee		Unit	Units	Units	Enforce-
						Large Scale	Small Scale	Rate	in	Rate	ment
								Slab 1	Slab 1	Rest	Date
1	2	3	4	5	6	7	8	9	10	11	12
1320	0	0	1988	Bakers yeast.	One Tonne	20000	14000	28.8	5000	14.4	20020301
2185	3	0	1984	Concrete Masonary Units Autoclaved Cellular (Aerated) Concrete Blocks	10 CU.M.	20000	14000	14.4	1000	7.2	20020301

1	2	3	4	5	6	7	8	9	10	11	12
3470	0	0	1996	Hexane Food Grade	One kilolitre	27000	20000	1.8	10000	1.44	20020301
6803	0	0	1972	Special Proofed Canvas and Duck	100 sq. metre	26000	18000	7.2	2000	2.88	20020301
9681	0	0	1980	Stearic Acid for Cosmetic Industry	One tonne	17000	12000	43.2	500	28.8	20020301
10001	0	0	1981	Constant Speed Compression Ignition (Diesel) Engines for General Purpose, Performance Requirements for	1 Engine	24000	17000	14.4	1500	8.64	20020301
10109	0	0	2002	Oil Pressure Stoves Offset Burner Type	One piece	27000	20000	0.22	50000	0.14	20020301
11170	0	0	1985	Performance Requirements for Constant Speed Compression Ignition (Diesel) Engines for Agricultural Purposes (upto 20 KW)	1 Engine	24000	17000	14.4	1500	8.64	20020301
814	0	0	1991	Covered Electrodes for Manual Arc Welding of Carbon and Carbon-manganese Steel	1000 pieces	64000	48000	1.45	60000	0.75	20020401
1163	0	0	1992	Chocolates	One tonne	36000	29000	144	500	108	20020401
1164	0	0	1986	Cocoa Powder	One tonne	36000	29000	108	500	86.4	20020401
2026	1	0	1977	Power Transformers	1KVA	33000	26000	1.1	30000	0.6	20020401
3196	1	0	1992	Welded Low Carbon Steel Gas Cylinders Exceeding 5-Litre Water Capacity for Low Pressure Liquefiable Gases	1 Cylinder	120000	84000	2.9	50000	2.2	20020401
3196	2	0	1992	Welded Low Carbon Cylinders Exceeding 5 Litre Capacity Cylinders for Liquefiable Gases other than LPG	One Cylinder	120000	84000	2.9	50000	2.2	20020401
7138	0	0	1973	Furniture Tubes	1 Tonne	24000	17000	5.8	3000	2.9	20020401

1	2	3	4	5	6	7	8	9	10	11	12
7142	0	0	1995	Welded Low Carbon Steel Gas Cylinder For Low Pressure Liquefiable Gases, not exceeding 5 litre water capacity	1 Cylinder	120000	84000	2.2	50000	1.45	20020401
7809	3	1	1986	Pressure Sensitive Adhesive Tapes for Electrical Purposes	100 Rolls	20000	14000	0.75	5000	0.45	20020401
8291	0	0	1976	Phenthoate, EC	100 Litre	29000	22000	28.8	All	21.6	20020401
8554	0	0	2001	Automotive Hydraulic Break Fluid Heavy duty	1 Kilo litre	33000	26000	72	1000	43.2	20020401
11217	0	0	1984	Ultramarine Blue for use in Textile Industry	One Tonnes	26000	18000	57.6	400	28.8	20020401
11501	0	0	1986	Engine Monoset Pumps for Clear, Cold, Fresh water for Agricultural Purposes	One Piece	24000	17000	14.4	1500	8.65	20020401
12406	0	0	2003	Medium Density Fibre Boards for General Purposes	One Tonne	36000	29000	14.4	2500	7.2	20020401
13133	0	0	1991	Chlorothionil WP	One Kg	30000	24000	1.45	100000	0.75	20020401
13403	0	0	1992	Anilophos EC	100 Litres	29000	22000	50.4	1000	36	20020401
14300	0	0	1995	Neem Based EC Containing Azadirachtin	100 Litre	72000	60000	72	1000	36	20020401
1151	0	0	1969	Refind Sugar	One Tonne	41000	34000	40	5000	20	20020513
5982	0	0	2003	Plantation White Sugar	One Tonne	41000	34000	40	5000	20	20020513
4684	0	0	1975	Edible Groundnut Flour (Expeller Pressed)	1 Tonne	40000	33000	20	2000 Units	10	20020823
9766	0	0	1992	Flexible PVC Compound	1 Tonne	49000	41000	50	1000 Units	25	20020823
1180	1	0	1989	Distribution transformer Outdoor Type—3-Phase	1KVA	25000	18000	0.90	30000	0.48	1999-4-13

[No. CMD-IV/13: 10]

S. K. CHAUDHURI, Dy. Director General (Marks)

नई दिल्ली, 6 अगस्त, 2004

का.आ. 1963.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1890 (भाग 0) : 1995/ आईएस 31-0 : 1992	संशोधन सं. 2 मई 2004	31-05-2004
2.	आईएस 2062 : 1999	संशोधन सं. 3 जून 2003	30-07-2003
3.	आईएस 4031 (भाग 6) : 1988	संशोधन सं. 3 फरवरी 2003	28-02-2003
4.	आईएस 6452 : 1989	संशोधन सं. 4 मई 2004	31-05-2004
5.	आईएस 6909 : 1990	संशोधन सं. 5 मई 2004	31-05-2004
6.	आईएस 8041 : 1990	संशोधन सं. 4 मई 2004	15-06-2004
7.	आईएस 8042 : 1989	संशोधन सं. 6 मई 2004	15-06-2004
8.	आईएस 9798 : 1995	संशोधन सं. 3 मई 2003	31-10-2003
9.	आईएस 11852 (भाग 9) : 2003	संशोधन सं. 1 मई 2004	31-05-2004
10.	आईएस 12330 : 1988	संशोधन सं. 5 मई 2004	15-06-2004
11.	आईएस 13849 : 1993	संशोधन सं. 3 फरवरी 2003	17-09-2003
12.	आईएस 13849 : 1993	संशोधन सं. 4 सितम्बर 2003	16-01-2004
13.	आईएस 14609 : 1999	संशोधन सं. 1 मई 2003	12-05-2003

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों, नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. के प्र वि-IV/13 : 5]

एस के. चौधरी, उप महानिदेशक (मुहर)

New Delhi, the 6th August, 2004

S.O. 1963.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards, hereby notifies that amendments of the Indian Standards particulars of which are given in the schedule hereto annexed have been issued.

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1890 (Part 0) : 1995/ISO 31-0 : 1992	Amendment No. 2 May 2004	31-05-2004
2.	IS 2062 : 1999	Amendment No. 3 June 2003	30-07-2003
3.	IS 4031 (Part 6) : 1988	Amendment No. 3 February 2003	28-02-2003
4.	IS 6452 : 1989	Amendment No. 4 May 2004	31-05-2004
5.	IS 6909 : 1990	Amendment No. 5 May 2004	31-05-2004
6.	IS 8041 : 1990	Amendment No. 4 May 2004	14-06-2004
7.	IS 8042 : 1989	Amendment No. 6 May 2004	15-06-2004
8.	IS 9798 : 1995	Amendment No. 3 May 2003	31-10-2003
9.	IS 11852 (Part 9) : 2003	Amendment No. 1 May 2004	31-05-2004
10.	IS 12330 : 1988	Amendment No. 5 May 2004	16-06-2004
11.	IS 13849 : 1993	Amendment No. 3 February 2003	17-09-2003
12.	IS 13849 : 1993	Amendment No. 4 September 2003	16-01-2004
13.	IS 14609 : 1999	Amendment No. 1 May 2003	12-05-2003

Copy of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Office: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CMD-IV/13 : 5]

S. K. CHAUDHURI, Dy. Director General (Marks)

पोत-परिवहन मंत्रालय

(स्थापना अनुभाग)

नई दिल्ली, 9 अगस्त, 2004

का. आ. 1964.—“सिगरेट और अन्य तम्बाकू उत्पाद (विज्ञापन का प्रतिषेध और व्यापार तथा वाणिज्य, उत्पादन, प्रदाय और वितरण का विनियमन) अधिनियम, 2003”, की धारा 25 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पोत-परिवहन मंत्रालय में सक्षम प्राधिकारी, एतद्वारा निदेशक/उपसचिव (समन्वय) को, उपर्युक्त मंत्रालय में उपर्युक्त अधिनियम के कार्यान्वयन की देख-रेख करने के लिए प्राधिकृत करते हैं। उक्त अधिनियम, 1 मई, 2004 से लागू हो गया है और उक्त अधिनियम की धारा-4 में किसी सार्वजनिक स्थल पर धूम्रपान का प्रतिषेध किया गया है।

[फा० सं० बी-11015/1/2003-स्थापना]

सुधेश कुमार शाही, जवर सचिव

MINISTRY OF SHIPPING

(Establishment Section)

New Delhi, the 9th August, 2004

S.O. 1964.—In exercise of the powers conferred by Section 25 of “The Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003”, the Competent Authority in the Ministry of Shipping hereby authorizes Director/Deputy Secretary (Co-ordination) to oversee the implementation of the Act in the Ministry. The said Act has come into force w.e.f. 1st May, 2004 and Section 4 of the said Act prohibits smoking in a public place.

[File No. B-11015/1/2003-Estt]

S. K. SHAHI, Under Secy.

शहरी विकास मंत्रालय

(दिल्ली प्रभाग)

नई दिल्ली, 26 जुलाई, 2004

का. आ. 1965.—दिल्ली नगर कला आयोग अधिनियम, 1973 (1974 का 1) के खंड 4 और 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत के राजपत्र असाधारण दिनांक 30-7-2003 की अधिसूचना के क्रम में, केन्द्र सरकार एतद्वारा आदेश करती है कि श्री बी०एस० लाली, अपर सचिव (यूडी), भारत सरकार अगले आदेश होने तक अपने दायित्वों के अतिरिक्त दिल्ली नगर कला आयोग के अध्यक्ष का कार्य भी संभालेंगे। अतः दिनांक 30-7-2003 की अधिसूचना प्रभावी नहीं रहेगी।

[फा० सं० ए-11013/7/2003-डीडीए (पार्ट)]

परमजीत सिंह, डैस्क अधिकारी

MINISTRY OF URBAN DEVELOPMENT

(Delhi Division)

New Delhi, the 26th July, 2004

S.O. 1965.—In exercise of the powers conferred by Section, 4 and 5 of the Delhi Urban Art Commission Act, 1973 (1 of 1974) and in continuance of notification dated 30-7-2003, the Central Govt. hereby orders that Shri B. S. Lalli, Addl. Secretary (UD) to the Govt. of India would also officiate as Chairman of the Delhi Urban Art Commission, in addition to his own duties, till further orders. The notification dated 30-7-2003 shall cease to be effective, henceforth.

[No. A-11013/7/2003-DDIA (Pt.)]

PARMJIT SINGH, Desk Officer

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 30 जुलाई, 2004

का.आ.1966.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 613 तारीख 10 मार्च 2004, जो भारत के राजपत्र भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 13 मार्च, 2004 पृष्ठ संख्या 1100 से 1101 तक में प्रकाशित की गई थी, में निम्नवत संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में पृष्ठ संख्या 1100 पर, “श्री लोकेन्द्रपाल सिंह, सक्षम प्राधिकारी इण्डियन ऑयल कॉर्पोरेशन लिमिटेड, सहारनपुर-नजीबाबाद एक्सटेंशन पाइपलाइन परियोजना, सक्षम प्राधिकारी का कार्यालय, के-33 पल्लवपुरम, फेस II, मेरठ (उत्तर प्रदेश)”, शब्दों के स्थान पर “श्री राकेश कुमार सिंह, सक्षम प्राधिकारी इण्डियन ऑयल कॉर्पोरेशन लिमिटेड सहारनपुर-नजीबाबाद एक्सटेंशन पाइपलाइन परियोजना, एस.डी.एम. लक्सर का कार्यालय, तहसील लक्सर, हरिद्वार (उत्तरांचल)” शब्द रखे जाएंगे।

[सं. आर.-25011/27/2002-ओ. आर.-1]

रेणुका कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

Corrigendum

New Delhi, the 30th July, 2004

S.O. 1966.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby amends the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 613 dated, the 10th March, 2004, Published in the Gazette of India Part II, Section 3, Sub-section (ii) dated the 13th March, 2004 at pages 1100 to 1101 as follows, namely :—

In the said notification, at page 1100 for the words, “Shri Lokendra Pal Singh, Competent Authority, Indian Oil Corporation Limited, Saharanpur—Najibabad Extension Pipeline Project, Office of the Competent Authority, K-33, Pallavpuram, Phase II, Meerut (Uttar Pradesh)” the words “Shri Rakesh Kumar Singh, Competent Authority, Indian Oil Corporation Limited, Saharanpur—Najibabad Extension Pipeline Project, Office of the S.D.M. Laksar, Tehsil Laksar, Haridwar (Uttaranchal)”, shall be substituted.

[No. R-25011/27/2002-OR-1]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 अगस्त, 2004

का.आ. 1967.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी और भारत के राजपत्र में प्रकाशित भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 613 दिनांक 10-03-04 द्वारा उत्तरांचल राज्य में होकर उत्तर प्रदेश राज्य में सहारनपुर से नजीबाबाद तक इण्डियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाये जाने के प्रयोजन के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को दिनांक 31-3-2004 को उपलब्ध करा दी गई थीं;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लिंगमों से मुक्त होकर इण्डियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : रुड़की		जिला: हरिद्वार	राज्य: उत्तरांचल	
		क्षेत्रफल		
गांव	खसरा नं०	हैक्टेयर	आर	सेन्टी आर
1	2	3	4	5
डाडली	51	00	01	50
सरठेड़ी				
शाहजहाँपुर	290	00	05	19
	235/4	00	02	00
	235/17	00	02	55
चुड़ियाला				
मोहनपुर	179/2	00	03	00
खाता खेड़ी	44	00	02	00

1	2	3	4	5
सफरपुर	2	00	10	95
बलेलपुर मजरा				
पनियाला चन्दापुर	84	00	05	30
अमरपुर काजी	120/1	00	06	80
पाड़ली गूजर	956	00	03	50
	949	00	01	17
मोहनपुर				
मोहम्मदपुर	365	00	04	32
	364	00	00	20
	380	00	03	00
	432	00	00	85
	433	00	01	02
आसिफ नगर	222	00	02	09
लंढौरा	303	00	02	00
थाथौला	343	00	00	60

[संख्या आर-25011/27/2002-ओ. आर.-1]

रेणुका कुमार, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 1967.—Whereas by the Notification of the Government of India in the Ministry of Petroleum and Natural Gas, Published in the Gazette of India vide number S.O. 613 dated the 10-3-2004; issued under Sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the Land specified in the Schedule appended to this notification for the purpose of laying pipeline for the transportation of Petroleum products from Saharanpur to Najibabad in the State of Uttar Pradesh through Distt. Haridwar (Uttaranchal) by the Indian Oil Corporation Limited;

And whereas, copies of the said gazette notification were made available to the public on 31-3-2004;

And, whereas, the Competent Authority in pursuance of sub-section (1) of Section 6 of the said Act, has submitted his report to the Central Government;

And, whereas, the Central Government after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification should be acquired.

And, further in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil: Roorki	District: Haridwar		State: Uttaranchal	
Village	Khasra No.	Hectare	Area Are	Centiare
1	2	3	4	5
Dadli	51	0	01	50
Sarthedi				
Shahajahanpur	290	0	05	19
	235/4	0	02	00
	235/17	0	02	55
Chudiala				
Mohanpur	179/2	0	03	00
Khata Kheri	44	0	02	00
Safarpur	2	0	10	95
Balelpur Majra				
Paniyala				
Chandapur	84	0	05	30
Amarpur Kazi	120/1	0	06	80
Padli Gujar	956	0	03	50
	949		01	17
Mohanpur	365	0	04	32
Mohammadpur	364	0	00	20
	380	0	03	00
	432	0	00	85
	433	0	01	02
Asif Nagar	222	0	02	09
Landhuara	303	0	02	00
Thathaula	343	0	00	60

[No. R-25011/27/2002-OR-1]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 अगस्त, 2004

का.आ. 1968.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 748 दिनांक 17-03-2004, जो भारत के राजपत्र तारीख 27 मार्च, 2004 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में पानेवाडी (मनमाड) से

मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-मनमाड पाइपलाइन विस्तार प्रयोजना के माध्यम से भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को दिनांक 5 मई, 2004 को उपलब्ध करा दी गई थीं;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : देपालपुर	जिला: इन्दौर	राज्य: मध्यप्रदेश	
क्र.	ग्राम का नाम	सर्वे नं.	क्षेत्रफल हैक्टेयर में
1	धन्नड़	633/2	0.0360
		628	0.0022
		858	0.0210
2.	धरावरा	522	0.0030
		382	0.0290
		358/1	0.0070
		521/3	0.0790
		521/5	0.0990
		490/2	0.0250

[फा. सं.-आर-31015/43/2001-ओ. आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 1968.—Whereas by Notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 748 dated the 17th March, 2004, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the

said Act), published in the Gazette of India dated the 27th March, 2004, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Manmad Pipeline Extension Project from Panewadi (Manmad) in the State of Maharashtra to Manglya (Indore) in the State of Madhya Pradesh by Bharat Petroleum Corporation Limited;

And whereas, copies of the said Gazette Notification were made available to the public on the 5th May, 2004;

And, whereas, the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And, whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And, further in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall instead of vesting in the Central Government, vest on this date of the publication of this declaration, in Bharat Petroleum Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil: Depalpur		District: Indore	State: Madhya Pradesh
S. No.	Name of Village	Survey No.	Area in Hectare
1.	Dhannad	633/2	0.0360
		628	0.0022
		858	0.0210
2.	Dharavara	522	0.0030
		382	0.0290
		358\1	0.0070
		521/3	0.0790
		521/5	0.0990
		490/2	0.0250

[F. No. R -31015/43/2001 -OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 9 अगस्त, 2004

का.आ. 1969.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम

कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 879 दिनांक 1 अप्रैल, 2004, जो भारत के राजपत्र तारीख 10 अप्रैल, 2004 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में पानेवाड़ी (मनमाड) से मध्यप्रदेश राज्य में मांगल्या (इंदौर) तक पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-मनमाड पाइपलाइन विस्तार प्रयोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को दिनांक 8 जून, 2004 को उपलब्ध करा दी गई थीं;

और, संक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : इन्दौर		जिला: इन्दौर	राज्य: मध्यप्रदेश
क्र. सं.	ग्राम का नाम	सर्वे नं.	क्षेत्रफल हैक्टेयर में
1	2	3	4
1.	कलारिया	90/1	0.0440
		341	0.0340
2.	धरनावद	214	0.0720
		198	0.2740
3.	सावलिया खेड़ी	150/2	0.0770
		151	0.0830
		118/1	0.0330
		128/2	0.0520
		117/1/1	0.0145
4	पिपलिया तफा	104	0.0200

1	2	3	4
5.	रिजलाई जागीर	29	0.0040
		34/4	0.0530
		205/1	0.0160
		101	0.0810
		21	0.0410
		25	0.0050
		26	0.0320
6.	जम्बूडी हप्सी	586	0.0100
		583	0.0120
		553/2	0.0160
		161	0.0200
		160/1	0.0050
		153/1/1	0.0990
		169/2/2/1	0.1620
		169/2/1	0.1980
		409/1	0.2210
		396/1	0.0570
7.	बुढानिया	409/1	0.2210
		396/1	0.0570
		346/1	0.0040
		347/1	0.0610
		348	0.0170
		340/1	0.0260
		340/5	0.0030
8.	पालाखेड़ी	90/1/3	0.0980
		87/1/1	0.0670
		87/1/2/1	0.1970
		87/1/2/2	0.0920
		21/5	0.0300
		21/4	0.0410
		22/5	0.0230
		60/1/1	0.0190
		23	0.0660
		34/1/1/2	0.0160
		184/2/2	0.0110
		183	0.0360
		87/1/3/1	0.0540
9.	लिम्बोदागारी	456/1/2	0.1270
		453	0.0360
		452/2	0.0230
		468/1	0.1498
		402	0.0430
		393	0.0160
		394	0.0080
		388	0.0030
		382/2	0.0460

[फा. सं. आर-31015/25/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th August, 2004

S.O. 1969.—Whereas by the Notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 879 dated the 1st April, 2004, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 10th April, 2004, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Manmad Pipeline Extension Project from Panewadi (Manmad) in the State of Maharashtra to Mangliya (Indore) in the State of Madhya Pradesh by Bharat Petroleum, Corporation Limited;

And whereas, copies of the said Gazette notification were made available to the public on the 8th June, 2004;

And, whereas, the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And, whereas, the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And, further in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on this date publication, of this declaration, in Bharat Petroleum Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil: Indore District: Indore		State : Madhya Pradesh	
S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Kalariya	90/1	0.0440
		341	0.0340
2.	Dhamavad	214	0.0720
		198	0.2740
3.	Savliya Khedi	150/2	0.0770
		151	0.0830
		118/1	0.0330
		128/2	0.0520
		117/1/1	0.0145

1	2	3	4
4.	Pipliya Tafa	104	0.0200
5.	Rinjilai Jagir	29	0.0040
		34/4	0.0530
		205/1	0.0160
		101	0.0810
		21	0.0410
		25	0.0050
		26	0.0320
6.	Jamburdi-Hapsi	586	0.0100
		583	0.0120
		553/2	0.0160
		161	0.0200
		160/1	0.0050
		153/1/1	0.0990
		169/2/2/1	0.1620
		169/2/1	0.1980
7.	Budhaniya	409/1	0.2210
		396/1	0.0570
		346/1	0.0040
		347/1	0.0610
		348	0.0170
		340/1	0.0260
		340/5	0.0030
8.	Palakhedi	90/1/3	0.0980
		87/1/1	0.0670
		87/1/2/1	0.1970
		87/1/2/2	0.0920
		21/5	0.0300
		21/4	0.0410
		22/5	0.0230
		60/1/1	0.0190
		23	0.0660
		34/1/1/2	0.0160
		184/2/2	0.0110
		183	0.0360
		87/1/3/1	0.0540

1	2	3	4
9	Limbodagari	456/1/2	0.1270
		453	0.0360
		452/2	0.0230
		468/1	0.1498
		402	0.0430
		393	0.0160
		394	0.0030
		388	0.0030
		382/2	0.0460

[F. No. R-31015/25/2001-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 11 अगस्त, 2004

का. आ. 1970.—केन्द्रीय सरकार ने पेट्रोलियम और प्राकृतिक गैस मंत्रालय के का.आ. 884 दिनांक 8 अप्रैल, 2004 द्वारा पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन अधिसूचना प्रकाशित कर, पारादीप हल्दीया पाइपलाइन प्रणाली परियोजना हेतु कच्चे तेल का परिवहन करने के प्रयोजन के लिये उड़ीसा राज्य के पारादीप से पश्चिम बंगाल के हल्दीया तक पाइपलाइन बिछाने हेतु उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट तहसील : कुजना, जिला : जगतसिंहपुर, उड़ीसा की भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियां जनता को दिनांक 17-5-2004 तक उपलब्ध करा दी गई थीं;

और, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अनुसरण में संक्षम प्राधिकारी, उड़ीसा, ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाता है;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लिंगों से मुक्त होकर इण्डियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची				
तहसील : कुजना		जिला : जगतसिंहपुर राज्य : उड़ीसा		
गांव	खसरा नं०	क्षेत्रफल		
		हैक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
चौकीमथा	152	0	00	19
	153	0	01	01
	26	0	00	71
	19	0	16	55
	18	0	23	30
	20	0	21	95
	24	0	00	10
	22	0	08	22
रन्गिआगड़	461	0	01	10
	460	0	00	72
	459	0	09	83
	458	0	04	03
	467	0	00	69
	468	0	00	10
	469	0	01	88
	470	0	00	22
	388	0	10	37
	389	0	02	23
	387	0	07	98
	380	0	05	34
	381	0	01	39
	382	0	06	64
	385	0	00	70
	383	0	00	41
	उदयबट	995	0	04
996		0	01	78
997		0	03	52
1039		0	01	60
1040		0	01	46
1041		0	01	77
1038		0	01	07
1042	0	02	42	

1	2	3	4	5	1	2	3	4	5
उदयबट	1043	0	01	42	पारादिपगड़	1376	0	00	35
	1044	0	01	29		1377	0	02	04
	1045	0	01	84		1380	0	00	80
	1046	0	00	10		1381	0	01	21
	1117	0	02	51		1382	0	00	99
	1118	0	03	33		1383	0	01	49
	1119	0	00	81		1387	0	01	71
	1116	0	03	23		1388	0	02	06
	1115	0	01	69		1391	0	12	01
	1114	0	00	86		1409	0	05	86
	1120	0	04	35		1408	0	01	77
	1123	0	07	84		1410	0	03	14
	1124	0	04	27		1412	0	01	41
	1127	0	18	34		1426	0	03	80
	1133	0	07	76		1425	0	03	34
	1199	0	02	05		1418	0	00	10
	1203	0	00	79		1424	0	02	17
	1200	0	01	14		1419	0	04	69
	1201	0	02	45		1423	0	00	39
	1202	0	01	66		1420	0	04	39
	1192	0	02	17		1422	0	01	77
	1193	0	05	75		1421	0	02	11
	1191	0	01	36	नुआगाड़	1225	0	14	26
	1186	0	00	10		109	0	00	52
	1187	0	00	22		116	0	02	12
	1156	0	02	86		117	0	02	77
	1155	0	02	44		118	0	04	40
	1153	0	01	52		119	0	00	31
	1154	0	00	52		124	0	28	40
	1149	0	01	32		125	0	09	54
	1148	0	01	16		126	0	01	53
	1147	0	00	03		136	0	00	10
	1146	0	02	61		137	0	00	31
	1145	0	04	11		138	0	03	44
	1144	0	02	01		139	0	05	20
	1143	0	00	15		140	0	05	29
	1164	0	07	55		142	0	02	18
	1165	0	00	97		143	0	02	24
						144	0	02	27

1	2	3	4	5
नुआगड़	145	0	01	28
	146	0	02	75
	147	0	00	10
	150	0	07	23
	151	0	21	12
	155	0	00	10
	154	0	06	24
	213	0	02	65
	217	0	09	50
	216	0	07	17
	218	0	00	85
	248	0	08	08
	249	0	01	86
	265	0	00	74
	264	0	03	57
	254	0	10	06
	253	0	00	10
	255	0	11	09
	256	0	00	10
	756	0	08	42
	743	0	01	64
	692	0	09	10
	691	0	07	23
	690	0	06	29
	689	0	03	12
	686	0	02	65
	685	0	02	64
	682	0	08	25
	681	0	08	64
	680	0	01	94
	678	0	05	61
	679	0	01	79
	676	0	01	50
	677	0	01	45
	672	0	00	99
	673	0	01	52
	670	0	02	89
	671	0	00	11
	669	0	01	59

1	2	3	4	5
नुआगड़ (जारी)	668	0	01	82
	667	0	02	27
	659	0	04	77
	660	0	05	79
	661	0	02	53
	662	0	00	10
	654	0	27	56
	652	0	00	10
	651	0	06	38
	650	0	02	45
	649	0	00	10
	648	0	05	48
	647	0	04	11
	646	0	05	49
	644	0	02	17
	643	0	04	32
	636	0	07	19
	641	0	04	93
	640	0	06	38

[फा. सं. आर-25011/8/2004-ओआर-1]

रेणुका कुमार, अवर सचिव

New Delhi, the 11th August, 2004

S.O. 1970.—Whereas by the Notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 884 dated the 8th April, 2004 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in Tehsil : Kujange, District : Jagatsinghpur in Orissa State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Crude Oil from Paradip in the State of Orissa to Haldia in the State of West Bengal by the Indian Oil Corporation Limited for implementing the Paradip Haldia Crude Oil Pipeline Project.

And whereas, copies of the said notification were made available to the public on 17-5-2004;

And, whereas, the Competent Authority, has under of Sub-section (1) of Section 6 of the said Act, submitted his report to the Central Government;

And, whereas, the Central Government after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is here acquired ;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : Kujange District : State : Orissa
Jagatsinghpur

Name of village Khasra No.	Area			
	Hectare	Are	Sq. mtr.	
1	2	3	4	5
Chukimatha	152	0	00	19
	153	0	01	01
	26	0	00	71
	19	0	16	55
	18	0	23	30
	20	0	21	95
	24	0	00	10
	22	0	08	22
Rangjagad	461	0	01	10
	460	0	00	72
	459	0	09	83
	458	0	04	03
	467	0	00	69
	468	0	00	10
	465	0	01	88
	470	0	00	22
	388	0	10	37
	389	0	02	23
	387	0	07	98
	380	0	05	34
	381	0	01	39
	382	0	06	64
	385	0	00	70
383	0	00	41	

1	2	3	4	5
Udaybata	995	0	04	05
	996	0	01	78
	997	0	03	52
	1039	0	01	60
	1040	0	01	46
	1041	0	01	77
	1038	0	01	07
	1042	0	02	42
	1043	0	01	42
	1044	0	01	29
	1045	0	01	84
	1046	0	00	10
	1117	0	02	51
	1118	0	03	33
	1119	0	00	81
	1116	0	03	23
	1115	0	01	69
	1114	0	00	86
	1120	0	04	35
	1123	0	07	84
	1124	0	04	27
	1127	0	18	34
	1133	0	07	76
	1199	0	02	05
	1203	0	00	79
	1200	0	01	14
	1201	0	02	45
	1202	0	01	66
	1192	0	02	17
	1193	0	05	75
	1191	0	01	36
	1186	0	00	10
	1187	0	00	22
	1156	0	02	86
	1155	0	02	44
	1153	0	01	52
	1154	0	00	52
	1149	0	01	32
	1148	0	01	16

1	2	3	4	5	1	2	3	4	5
Udaybata	1147	0	00	03	Nuagar	137	0	00	31
(Contd.)	1146	0	02	61	(Contd.)	138	0	03	44
	1145	0	04	11		139	0	05	20
	1144	0	02	01		140	0	05	29
	1143	0	00	15		142	0	02	18
	1164	0	07	55		143	0	02	24
	1165	0	00	97		144	0	02	27
Paradipgarh	1376	0	00	35		145	0	01	28
	1377	0	02	04		146	0	02	75
	1380	0	00	80		147	0	00	10
	1381	0	01	21		150	0	07	23
	1382	0	00	99		151	0	21	12
	1383	0	01	49		155	0	00	10
	1387	0	01	71		154	0	06	24
	1388	0	02	06		213	0	02	65
	1391	0	12	01		217	0	09	50
	1409	0	05	86		216	0	07	17
	1408	0	01	77		218	0	00	85
	1410	0	03	14		248	0	08	08
	1412	0	01	41		249	0	01	86
	1426	0	03	80		265	0	00	74
	1425	0	03	34		264	0	03	57
	1418	0	00	10		254	0	10	06
	1424	0	02	17		253	0	00	40
	1419	0	04	69		255	0	11	09
	1423	0	00	39		256	0	00	10
	1420	0	04	39		756	0	08	42
	1422	0	01	77		743	0	01	64
	1421	0	02	11		692	0	09	10
Nuagar	1225	0	14	26		691	0	07	23
	109	0	00	52		690	0	06	29
	116	0	02	12		689	0	03	12
	117	0	02	77		686	0	02	65
	118	0	04	40		685	0	02	64
	119	0	00	31		682	0	08	25
	124	0	28	40		681	0	08	64
	125	0	09	54		680	0	01	94
	126	0	01	53		678	0	05	61
	136	0	00	10		679	0	01	79

1	2	3	4	5
	676	0	01	50
	677	0	01	45
	672	0	00	99
	673	0	01	52
	670	0	02	89
	671	0	00	11
	669	0	01	59
	668	0	01	82
	667	0	02	27
	659	0	04	77
	660	0	05	79
	661	0	02	53
	662	0	00	10
	654	0	27	56
	652	0	00	10
	651	0	06	38
	650	0	02	45
	649	0	00	10
	648	0	05	48
	647	0	04	11
	646	0	05	49
	644	0	02	17
	643	0	04	32
	636	0	07	19
	641	0	04	93
	640	0	06	38

[F. No. R-25011/8/2004-OR-I]

RENUKA KUMAR, Under Secy.

नई दिल्ली, 12 अगस्त, 2004.

क्र.आ. 1971.—केन्द्रीय सरकार ने भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3456 तारीख 18 दिसम्बर, 2001 का आंशिक आशोधन करते हुए, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में उक्त अधिनियम के अधीन, हरियाणा राज्य के राज्यक्षेत्र के भीतर गुरु गोबिन्द

सिंह रिफ़ाइनरी लिमिटेड की मुंद्रा-बठिंडा पाइपलाइन हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मुंद्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए श्री राम करण शर्मा, जिला राजस्व अधिकारी, हरियाणा सरकार, को प्राधिकृत करती है।

[फ़. सं. आर-31015/06/2004-ओ आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 12th August, 2004

S.O. 1971.—In partial modification of the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 3456 dated the 18th December, 2001 and in pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Shri Ram Karan Sharma, District Revenue Officer, Government of Haryana, on deputation to Hindustan Petroleum Corporation Limited, (HPCL) to perform the functions of the competent authority for HPCL's Mundra-Delhi Petroleum Product Pipeline, in addition to Mundra-Bathinda Pipeline of Guru Gobind Singh Refineries Limited, under the said Act, within the territory of the State of Haryana.

[File No. R-31015/06/2004-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 12 अगस्त, 2004

क्र.आ. 1972.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में उक्त अधिनियम के अधीन, राजस्थान राज्य के राज्यक्षेत्र के भीतर हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मुंद्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए श्री शिवदत्त गौर, विकास अधिकारी, रेवदार (सिरोही), राजस्थान सरकार, को प्राधिकृत करती है।

[फ़. सं. आर-31015/06/2004-ओ आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 12th August, 2004

S.O. 1972.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Shri Shivdutt Gaur, Development Officer, Revdar (Sirohi), Government of Rajasthan, on deputation to Hindustan Petroleum Corporation Limited, (HPCL) to perform the functions of the competent authority for HPCL's Mundra-Delhi Petroleum Product Pipeline, under the said Act, within the territory of the State of Rajasthan.

[File No. R-31015/06/2004-OR-II]

HARISH KUMAR, Under Secy.

श्रम मंत्रालय

अधिनिर्णय

नई दिल्ली, 15 जुलाई, 2004

दिनांक 14-5-2004

का.आ. 1973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राजस्थान स्टेट माईन्स एण्ड मिनरल्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-07-2004 को प्राप्त हुआ था।

[सं० एल-29012/97/2000-आई. आर. (एम)]

बी. एम. डेविड, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 15th July, 2004

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rajasthan State Mines & Minerals and their workman, which was received by the Central Government on 15-07-2004.

[No.L-29012/97/2000-IR (M)]

B.M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय
जोधपुर

पीठासीन अधिकारी : श्रीमती निशा गुप्ता, आर.एच.जे. एस.ओ. वि.
(केन्द्रीय) सं. : 9/2002

टीकुराम पुत्र श्री देवाराम जी निवासी भीमासर जिला जैसलमेर

....प्राथी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल्स, लिमिटेड
(आर.एस.एम.एम.लि.)

....अप्राथी

उपस्थिति :—

- (1) प्राथी प्रतिनिधि श्री एल.डी. खत्री उप.
- (2) अप्राथी प्रतिनिधि श्री खेमराम चौधरी उप.

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 29012/97/2000 दिनांक 8-1-2001 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“Whether the termination of services of Shri Tikuram S/o Sh. Devaram, Ex. Sahayak Karamchari by the mgt. of RSMDC Ltd. Jaipur by way of Voluntary Retirement Scheme w.e.f. 31-3-1998 is legal and justified? If not to what relief is workman concerned entitled?”

प्राथी ने अपना मांग-पत्र प्रस्तुत करते हुए कहा है कि प्राथी को अप्राथी ने अपने अधीन आर.एम.डब्ल्यू. के पद पर आज से करीब दस वर्ष पूर्व अस्थाई तौर पर नियुक्ति दी तथा सोनू लाईम स्टोन के प्रोजेक्ट पर कार्य करने हेतु निर्देशित किया तत्पश्चात् प्राथी को आर.एम. डब्ल्यू. के पद पर 1-10-92 को नियुक्त किया व 750-940 के ग्रेड पर स्थीकरण किया। अप्राथी के अधीनस्थ अधिकारियों ने प्राथी को कि अनपद व्यक्ति है को गुमराह करते हुए उससे स्वैच्छिक सेवानिवृत्ति योजना के अन्तर्गत प्रार्थना-पत्र मांगे जिसपर प्राथी ने अपना प्रार्थना-पत्र 24-12-97 को पेश किया जिसमें प्राथी ने विभिन्न शर्तों पर 31-3-98 से स्वयं को सेवानिवृत्त करने की प्रार्थना की। प्राथी द्वारा जब प्रार्थना-पत्र पेश किया तब प्राथी को स्वैच्छिक सेवानिवृत्ति से संबंधित अप्राथी की पॉलिसी का ऑफिस ओर्डर बताया गया, उक्त पॉलिसी प्राथी के मामले में लागू नहीं होती फिर भी प्राथी को रोजगार से निकालने हेतु अप्राथी द्वारा षडयंत्र किया 30-4-98 से पूर्व प्राथी को उक्त षडयंत्र की जानकारी होने पर प्राथी ने 5-2-98 को अपना प्रार्थना-पत्र पेश किया कि वह स्वैच्छिक सेवानिवृत्ति नहीं चाहता, प्राथी ने अन्य कर्मचारियों के साथ 3-4-98 को पुनः प्रार्थना-पत्र पेश किया, 13-4-98 को पुनः प्रार्थना-पत्र दिया लेकिन अप्राथी ने जिसे हठधर्मिता अपनाते हुए प्राथी की नहीं सुनी व आदेश दिनांक 28-3-98 के द्वारा प्राथी की सेवाएं 31-3-98 को इस आधार पर समाप्त कर दी कि प्राथी ने अप्राथी के समक्ष अपना त्याग-पत्र पेश किया। अप्राथी का उक्त कृत्य अनफेयर लेबर प्रैक्टिस की तारीफ में आता है। प्राथी का कथन है कि उसे सेवा से निकालने के पश्चात् अप्राथी ने अपने अधीनस्थ इसी पद पर अन्य नये व्यक्तियों को नियुक्ति दी लेकिन उसे नौकरी नहीं दी। प्राथी ने विधिक नोटिस 25-4-98 को विपक्षी को दिया। अन्त में निवेदन किया कि अप्राथी के आदेश दिनांक 31-3-98 को अनुचित एवं अवैध घोषित किया जाकर प्राथी को पुनः नौकरी में लेने एवं अन्य प्रदत्त लाभ दिलाये जावें।

अप्राथी की ओर से जवाब में कहा गया कि प्राथी को निगम में दैनिक मजदूर के रूप में रखा था जिसे बाद में नियमित किया गया, अप्राथी द्वारा प्राथी को गुमराह नहीं किया गया, प्राथी ने स्वैच्छिक सेवानिवृत्ति योजना को भली-भांति समझकर स्वेच्छा से बिना किसी दबाव के सोच समझकर स्वयं ने स्वैच्छिक सेवानिवृत्ति हेतु आवेदन किया था जिसे स्वीकार कर प्राथी को 31-3-98 को सेवानिवृत्त कर दिया,

प्रार्थी ने सेवानिवृत्ति के तहत मिलने वाले तमाम आर्थिक लाभ व रकम अप्रार्थी से प्राप्त कर ली है अब किसी तरह की बकाया नहीं है, निगम द्वारा सभी कर्मचारियों के लिए एक ही योजना जारी की थी, जो प्रार्थी के मामले में पूर्ण रूप से लागू होती थी, प्रार्थी द्वारा 5-2-98 को कोई प्रार्थना-पत्र अप्रार्थी के समक्ष प्रस्तुत नहीं किया, प्रार्थी को 31-3-98 को सेवामुक्त कर दिया उसके पश्चात् 3-4-98 को प्रार्थना-पत्र पेश कर स्वैच्छिक सेवानिवृत्ति को रोकने की बात गलत व अर्थात्हीन है, प्रार्थी ने दो गवाहों के हस्ताक्षर करवाकर स्वैच्छिक सेवानिवृत्ति हेतु बिना किसी दबाव व भय के आवेदन किया था जिसे अप्रार्थी ने स्वीकार करने में कोई भूल नहीं की, अप्रार्थी द्वारा किसी भी नियम का उल्लंघन नहीं किया, अप्रार्थी के अधिकारी/कर्मचारी द्वारा न तो प्रार्थी को गुमराह किया न ही खाली पन्नों पर हस्ताक्षर करवाये, प्रार्थी की सेवानिवृत्ति के पश्चात् किसी भी नये व्यक्ति को नियुक्ति नहीं दी, प्रार्थी ने स्वैच्छिक सेवानिवृत्ति के तमाम लाभों को प्राप्त कर लिया है, अब प्रार्थी की कोई राशि अप्रार्थी में बकाया नहीं है। अन्त में निवेदन किया कि प्रार्थी का मांग-पत्र सव्यय खारिज किया जावे।

प्रार्थी ने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया व अप्रार्थी की ओर से त्रिभुवन राम ठाकौर का शपथ-पत्र प्रस्तुत किया दोनों पक्षों द्वारा एक दूसरे के शपथ-पत्र पर जिरह की गई। प्रार्थी की ओर से कुछ दस्तावेजात की फोटो प्रतियाँ पेश की गई।

दोनों पक्षों के प्रतिनिधियों की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि उसने सेवानिवृत्ति हेतु प्रार्थना-पत्र शर्तों पर दिया था जो प्रार्थना-पत्र उसने वापस ले लिया और राशि अदा होने तक उसे रिलीज नहीं किया गया था। इस प्रकार उसकी सेवानिवृत्ति अवैध है।

विपक्षी द्वारा यह कहा गया कि प्रार्थी ने कभी भी अपना त्याग-पत्र वापस नहीं लिया, उसे समस्त राशि का भुगतान हो चुका है।

स्वयं प्रार्थी ने यह स्वीकार किया कि उसे 80,000/- रुपये मिले थे और उसने राजी-खुशी से रिटायरमेंट लिया था।

विपक्षी की ओर से त्रिभुवन राम ठाकौर पेश हुए हैं जिनका यह कथन है कि प्रार्थी को जबरन नहीं निकाला गया था।

प्रार्थी का यह कथन है कि उसने 5 फरवरी 98 को त्याग-पत्र वापस ले लिया था परन्तु इस आशय की कोई साक्ष्य पत्रावली पर उपलब्ध नहीं है। न्यायालय के समक्ष जो प्रार्थना-पत्र पेश हुआ है वह 13-4-98 का है जबकि उसके पूर्व ही त्याग-पत्र स्वीकार कर लिया गया था। प्रार्थी का यह कथन है कि उसे रिलीव नहीं किया गया था। परन्तु यह स्थिति भी 28-3-98 के कार्यालय आदेश से समाप्त हो जाती है क्योंकि इस आदेश से प्रार्थी को 31-3-98 के अपराह्न में रिलीव कर दिया गया था। प्रार्थी ने यह स्वीकार

किया है कि उसने सेवानिवृत्ति के सभी परिलाभ प्राप्त कर लिये हैं ऐसी स्थिति में भी अब प्रार्थी सेवानिवृत्ति पर कोई आपत्ति उठाने का अधिकारी नहीं है जैसा कि एस.बी. सिविल रिट पिटीशन नं. 3650/98 अम्बिका बनाम आर.एस.एम.डी.सी. में विनिश्चय में माननीय राजस्थान उच्च न्यायालय द्वारा यह निर्धारित किया है कि जहाँ प्रार्थी ने सेवानिवृत्ति के संबंध में परिलाभों को प्राप्त कर लिया है तो उसे सेवानिवृत्ति के आदेश को चुनौती देने का कोई अधिकार नहीं है।

प्रार्थी द्वारा यह कहा गया है कि उसकी सेवानिवृत्ति शर्तों पर थी। प्रार्थी का त्याग-पत्र का प्रार्थना-पत्र पेश हुआ है, स्वैच्छिक सेवानिवृत्ति एक विशिष्ट योजना के अन्तर्गत चालू की गई थी और उसी योजना के अन्तर्गत प्रार्थी को समस्त परिलाभ दिये गये हैं, साथ ही जब प्रार्थी द्वारा त्याग-पत्र दिया गया और समस्त परिलाभ सेवानिवृत्ति पर प्राप्त कर लिये तो यह स्थिति स्पष्ट है कि प्रार्थी द्वारा सभी शर्तों को समाप्त कर दिया गया और जब प्रार्थी द्वारा समस्त परिलाभ प्राप्त कर लिये गये हैं तब उसकी आपत्ति निराधार है।

इस प्रकार प्रार्थी को स्वैच्छिक सेवानिवृत्ति के अन्तर्गत सेवानिवृत्त किया जाना किसी भी प्रकार अनुचित और अवैध नहीं है और प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है।

अधिनिर्णय

अतः यह अधिनिर्णित किया जाता है कि श्री टीकुराम पुत्र श्री देवाराम को विपक्षी आर.एस.एम.डी.सी. लि. द्वारा स्वयं प्रार्थी के स्वैच्छिक सेवानिवृत्ति के प्रार्थना-पत्र के अन्तर्गत सेवानिवृत्त किया गया है जो किसी भी प्रकार अनुचित और अवैध नहीं है। अतः प्रार्थी विपक्षी नियोजक से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 14-5-2004 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2004

का.आ. 1974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार राजस्थान. स्टेट माईन्स एण्ड मिनरल्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-07-2004 को प्राप्त हुआ था।

[सं० एल-29012/90/2000-आई. आर. (एम)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 15th July, 2004

S.O. 1974.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rajasthan State Mines & Minerals and their workman, which was received by the Central Government on 15-07-2004.

[No. L-29012/90/2000-IR (M)]

B. M. DAVID, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय जोधपुर

पीठासीन अधिकारी :—श्रीमती निशा गुप्ता, आर.एच.जे.एस.औ.
त्रि. सं. (केन्द्रीय) :—22/2001

गोविन्दराम पुत्र श्री दानाराम, जाति बेलदार, निवासी डट कॉलोनी,
जैसलमेर।प्राथी

बनाम

राजस्थान स्टेट माईन्स एण्ड मिनरल्स लिमिटेड, उदयपुरअप्राथी
उपस्थिति :—

- (1) प्राथी प्रतिनिधि श्री एल० डी० खत्री उप.
- (2) अप्राथी प्रतिनिधि श्री खेमाराम चौधरी उप०

अधिनिर्णय

दिनांक 14-5-2004

श्रम मंत्रालय भारत सरकार नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 29012/90/2000 दिनांक 24-1-2001 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“Whether the termination of services of Shri Govindaram S/o Sh. Danaram, Beldar Ex. Sahayak Karamchhari by the management of RSMDC Ltd., Jaipur by way of Voluntary Retirement Scheme w.e.f. 31-12-1997 is legal and justified? If not, to what relief is workman concerned entitled?”

प्राथी ने अपना मांग-पत्र प्रस्तुत करते हुए प्राथी को अप्राथी ने अपने अधीन आर.एम.डब्ल्यू. के पद पर आज से करीब 8 वर्ष पूर्व अस्थाई तौर पर नियुक्ति दी तथा सोनू लाईम स्टोन प्रोजेक्ट पर कार्य करने हेतु निर्देशित किया उसके बाद प्राथी को 12-1-93 के आदेश से आर०एम०डब्ल्यू० के पद पर 1-10-92 से नियमित कर

750-940 के ग्रेड पर स्थिरीकरण किया। प्राथी अनपढ़ हैं जिसे अप्राथी के अधिकारियों ने गुमराह करते हुए स्वैच्छिक सेवानिवृत्ति योजना के अन्तर्गत प्रार्थना-पत्र मांगा जिस पर प्राथी ने भी अपना प्रार्थना-पत्र अप्राथी को पेश किया व 31-10-97 से कुछ शर्तों पर स्वयं को सेवानिवृत्त करने हेतु प्रार्थना की। उस समय प्राथी को अप्राथी की पॉलिसी का ऑफिस ओर्डर बताया गया, उक्त पॉलिसी प्राथी के मामले में लागू नहीं होती फिर भी प्राथी को रोजगार से निकालने हेतु अप्राथी द्वारा षड्यंत्र रचा गया जिसकी जानकारी प्राथी को होने पर 31-10-97 को प्राथी ने स्वैच्छिक सेवानिवृत्ति का प्रार्थना-पत्र वापस उठाने हेतु प्रार्थना-पत्र दिया, प्राथी ने 13-4-98 को भी अन्य कर्मचारियों के साथ ऐसा प्रार्थना-पत्र दिया, अनपढ़ कर्मचारियों के अप्राथी के अधीनस्थ अधिकारियों द्वारा गुमराह करके खाली पन्नों पर हस्ताक्षर करवा लिये जो अनफेयर लेबर प्रैक्टिस की तारीफ में आता है। अन्त में निवेदन किया कि प्राथी की सेवामुक्ति को अवैध घोषित किया जाकर प्राथी को पुनः सेवा में मय परिलाभ पुनर्स्थापित किया जावे।

अप्राथी की ओर से जवाब में कहा गया कि प्राथी को शुरू में दैनिक मजदूर रखा गया बाद में 1-10-92 को 750-940 के वेतनमान में नियमित किया गया, अप्राथी द्वारा प्राथी को गुमराह नहीं किया गया, निगम में कार्यरत कर्मचारियों के समक्ष स्वैच्छिक सेवानिवृत्ति योजना जारी की गई जिसके गुणावगुण लाभ आदि को अच्छी तरह समझकर स्वैच्छा से बिना किसी दबाव के व बिना किसी षड्यंत्र के प्राथी ने स्वचिन्नेक से अपनी स्वतंत्र इच्छा से स्वैच्छिक सेवानिवृत्ति हेतु प्रार्थना-पत्र प्रस्तुत कर 31-12-97 से स्वैच्छिक सेवानिवृत्ति चाही जिसे अप्राथी द्वारा स्वीकार कर उसे 31-12-97 को सेवानिवृत्ति कर दिया तथा उक्त योजना के तहत जो भी लाभ उसको देय थे का भुगतान कर दिया गया, अप्राथी निगम द्वारा जारी स्वैच्छिक सेवानिवृत्ति योजना सबके लिए समान थी जो प्राथी के मामले में पूर्ण रूप से लागू थी, प्राथी ने स्वैच्छिक सेवानिवृत्ति प्रार्थना-पत्र वापस लेने हेतु आदेश पारित होने की तारीख तक कोई आवेदन प्रस्तुत नहीं किया, प्राथी को उक्त योजना के तहत उसकी सेवा अवधि के अनुसार जो भी लाभ देय थे का भुगतान अप्राथी द्वारा किया जा चुका है अब किसी तरह की बकाया राशि अप्राथी में नहीं है। प्राथी ने सभी लाभ प्राप्त करने के पश्चात् बिना किसी आधार के गलत कानूनी राय के आधार पर यह आवेदन किया है जो पोषणीय नहीं है। अप्राथी के किसी भी अधीनस्थ कर्मचारी/अधिकारी द्वारा प्राथी को गुमराह नहीं किया न ही खाली पन्नों पर हस्ताक्षर करवाये, अप्राथी द्वारा पारित स्वैच्छिक सेवानिवृत्ति आदेश अनफेयर लेबर प्रैक्टिस की तारीफ में नहीं आता है। अन्त में निवेदन किया कि प्राथी का मांग-पत्र सब्यय खारिज किया जावे।

मांग-पत्र के समर्थन में प्राथी ने स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्राथी प्रतिनिधि द्वारा जिरह की गई तथा अप्राथी की ओर से त्रिभुवन राय ठाकोर का शपथ-पत्र प्रस्तुत किया जिस पर प्राथी प्रतिनिधि द्वारा जिरह की गई। दोनों पक्षों की ओर से दस्तावेजात की फोटो प्रतियां पेश की गई।

दोनों पक्षों के प्रतिनिधीगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि वह विपक्षी के अधीन नियोजित हुआ उसने लगातार विपक्षी के अधीन काम किया उसने स्वैच्छिक सेवानिवृत्ति त्याग-पत्र पेश किया जो उसने 31-10-97 को वापस ले लिया इसके बावजूद भी उसे स्वैच्छिक सेवानिवृत्ति प्रदान कर दी गई जो त्रुटिपूर्ण है।

विपक्षी द्वारा यह कहा गया कि प्रार्थी के प्रार्थना-पत्र पर स्वैच्छिक सेवानिवृत्ति दी गई और उसे समस्त लाभ प्रदान कर दिये गये हैं। त्याग-पत्र वापस लेने का कोई आवेदन पेश नहीं हुआ था।

स्वयं प्रार्थी ने अपनी प्रतिपरीक्षा में यह स्वीकार किया है कि उसने रितायरमेन्ट की अर्जी दी थी 70,000 रुपये उसे मिले थे और प्रदर्श-1 व 2 द्वारा भुगतान हुआ था।

विपक्षी की ओर से त्रिभुवन राय ठाकोर विधि सहायक पेश हुए हैं।

प्रार्थी का यह कथन है कि उसने अपना त्याग-पत्र वापस ले लिया था परन्तु इससे संबंधित कोई प्रार्थना-पत्र न्यायालय के समक्ष पेश नहीं हुआ है। स्वयं प्रार्थी की ओर से कार्यालय आदेश पेश हुआ है जिससे स्पष्ट है कि प्रार्थी को 31-12-97 को स्वैच्छिक सेवानिवृत्ति प्रदान की गई। प्रार्थी को किये गये भुगतान से संबंधित प्रपत्र भी विपक्षी की ओर से पेश हुए हैं। इस प्रकार प्रार्थी द्वारा त्याग-पत्र कभी भी वापस लिया गया हो इस आशय की कोई साक्ष्य नहीं है।

प्रार्थी का यह भी तर्क है कि उसे योजना के अनुरूप भुगतान नहीं हुआ। विपक्षी ने यह स्वीकार किया है कि प्रार्थी को 6-6-98 को भुगतान हुआ है लेकिन केवल इसी आधार पर स्वैच्छिक सेवानिवृत्ति को त्रुटिपूर्ण नहीं माना जा सकता और जब एक बार प्रार्थी द्वारा भुगतान प्राप्त कर लिया गया है तो फिर वह सेवानिवृत्ति पर कोई आपत्ति नहीं कर सकता। इस संबंध में एस.बी. सिविल रिट पिटीशन नं. 3650/98 अम्बाबा बनाम आर.एस.एम.डी.सी. में माननीय राजस्थान उच्च न्यायालय द्वारा यह निर्धारित किया है कि जहां प्रार्थी ने सेवानिवृत्ति के संबंध में परिलाभों को प्राप्त कर लिया है तो उसे सेवानिवृत्ति के आदेश को चुनौती देने का कोई अधिकार नहीं है।

इस प्रकार प्रार्थी को स्वयं उसके प्रार्थना-पत्र पर स्वैच्छिक सेवानिवृत्ति प्रदान की गई है ऐसी स्थिति में विपक्षी द्वारा कोई त्रुटि नहीं की गई है और प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

अधिनिर्णय

अतः यह अधिनिर्णीत किया जाता है कि श्री गोविन्दराम पुत्र श्री धनाराम बेलदार को स्वयं उसके प्रार्थना-पत्र पर विपक्षी आर. एस. एम.डी.सी. लि. द्वारा स्वैच्छिक सेवानिवृत्ति प्रदान की गई है, जिसमें विपक्षी द्वारा कोई त्रुटि नहीं की गई है। अतः प्रार्थी विपक्षी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

यह अधिनिर्णय आज दिनांक 14-5-2004 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 15 जुलाई, 2004

का.आ. 1975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, II धनबाद के पंचाट (संदर्भ संख्या 79/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/65/95-आई. आर. (सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 15th July, 2004

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. No. 79/98) of the Central Government Industrial Tribunal-cum Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 14-7-2004.

[No. L-20012/65/95-IR (C-D)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference u/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

REFERENCE NO. 79 OF 1998

PARTIES: Employers in relation to the management of Block-II Area of M/s. B.C.C. Ltd.

AND

Their workman.

PRESENT : Shri B. Biswas, Presiding Officer

APPEARANCES:

For the Employers : Shri. R. N. Ganguly, Advocate.

For the the Workman : Shri S. C. Gour, Advocate.

State : Jharkhand : Industry : Coal

Dated, 29th June, 2004

AWARD

By order No. L-20012/65/95-IR(C-I) dated 27-3-98 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the General Manager of Block-II of M/S. BCCL, P.O. Nawgarh, Dist. Dhanbad in denying promotion to Shri P.B. Mukherjee, Electrician, Cat. V to Cat. VI w.e.f. 1983 is justified? If not, to what relief is the workman entitled?"

2. The case of the concerned workman according to the written statement submitted by sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workman and M.C. Paul were appointed as Electrician in 1964 and 1973 respectively and each of them was placed in Electrician Grade-III at the time of appointment.

They further submitted that the concerned workman while was a matriculate the said M.C. Paul was non-matric. He also obtained L.T. licence in 1962 being a matriculate. They disclosed that the concerned workman attended Trade Test in 1982 for being considered for promotion to the post of Electrician Category-VI (Electrician Grade-I) and passed said trade test but due to non-availability of vacancy for the said post in Category-VI, no promotion was given to him. They further disclosed that while the concerned workman attended the said test after his promotion in Category-V in 1978, M.C. Paul got promotion to Category-V in 1979. It has been alleged that though M.C. Paul got his promotion in Category-V in the year 1979 got promotion in Category-VI in the year 1983 ignoring the claim of the concerned workman. When the concerned workman raised his protest to the management, they communicated that since he was not having H.T. licence his promotion in Category-VI (Electrician Grade-I) could not be considered. It has been further alleged that while the management refused to give promotion taking the plea not having H.T. licence did not consider this fact in giving promotion to M.C. Paul in the year 1983 though he had no H.T. licence and though he was non-matric. The sponsoring union further submitted that the said discrimination not only was exhibited in the case of the concerned workman in relation to M.C. Paul but also disparity came into existence when management gave promotion to Kamdeo Singh in Category-VI in the year 1981 though he was very much junior to him. Referring two examples the sponsoring union submitted that management do not follow any rule in the matter of giving promotion of the workmen having equal grade. They further submitted that another workman, Panchanand Mahato who got his promotion in Category-V in July, 1981

was promoted to Category-VI (Electrician Grade-I) in 1985 by the management though he was not in possession of H.T. licence and matriculation certificate. Accordingly, he raised an industrial dispute for conciliation which ultimately resulted to this Tribunal for adjudication.

The sponsoring union hence, submitted prayer to pass award directing the management to issue order of promotion of the concerned workman in Category-VI w.e.f. 1983 with all back wages and other consequential relief.

3. The management, on the contrary, after filing written statement-cum-rejoinder, have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that on the demand of Rashtriya Colliery Mazdoor Sangh advanced on behalf of the concerned workman for his promotion from Category-V to Category-VI a conciliation settlement was arrived at on 10-9-88 before the A.L.C. (C), Dhanbad-II. As per the said settlement it was stipulated that the concerned workman would be given difference of wages between Category-VI and Category-V for a period of two years w.e.f. 3-3-88 and he was required to pass the wireman's certificate on high tension cable in which even he would be promoted from Category-V to Category-VI w.e.f. 3-3-88. It was further stipulated that in case the concerned workman fails to obtain the H.T. Wireman's Certificate within the stipulated period he would not get any benefit after the expiry of two years from 3-3-88. They submitted that the aforesaid settlement was arrived at in course of conciliation proceeding and the concerned workman received the difference of wages for a period of two years between Category-VI and Category-V, but as he could not fulfil the conditions of the settlement his promotion in Category-VI was not considered. They submitted that the said settlement was binding upon the parties till it was refuted by either of the side. In the instant case the said settlement was very much binding in between the parties, but the concerned workman by-passing the said settlement within the stipulated period raised an industrial dispute through another union, which is absolutely illegal and not maintainable. They submitted that the cadre scheme for promotion of electrical and mechanical discipline in the coal industry was formulated by JBCCI in the year 1984 and the implementation circular No. 30 dated 26-6-84 was circulated to different coal companies subsequently. As per the aforesaid cadre scheme, the pre-requisite condition for promotion of Electrician from Category-V to Category-VI is that he must have passed statutory qualification to perform duties on H.T. electrical lines, the electricity being supplied through cable in mines or through overhead lines on the surface. As the concerned workman does not possess the statutory certificate of H.T. Wireman's permission, he was not considered suitable for getting his promotion in

Category-VI as per the cadre scheme. They submitted further that prior to implementation of the aforesaid circular in different establishments, the management used to follow the principle of promotion from Category-V to Category-VI on the basis of merit of different electricians in properly attending to electrical breakdowns and on the basis of skill possessed by them in detecting faults and rectifying the defects in the electrical circuits, switch-gears, remote control systems and various other electrical lines in motors and machines. After implementation of JBCCI circular the management was debarred from giving promotion to an electrician in Category-VI from Category-V on the basis of merit and skill as mentioned above. As per JBCCI circular pre-requisite condition for getting promotion in Category-VI is that a workman must possess H.T. Wireman's certificate. They disclosed that as the concerned workman in spite of giving opportunity as per settlement failed to obtain that certificate they could not consider his promotion in Category-VI from Category-V. Accordingly, they submitted that the allegations which the concerned workman have brought against the management find no basis at all and for which he is not entitled to get any relief as per his prayer.

POINTS TO BE DECIDED

4. "Whether the action of the General Manager of Block-II of M/s. BCCL, P.O. Nawgarh, Dist. Dhanbad in denying promotion to Shri P.B. Mukherjee, Electrician Category-V to Category-VI w.e.f. 1983 is justified?"

FINDING WITH REASONS

5. It transpires from the record that the sponsoring union with a view to establish their claim examined the concerned workman as WW-1. The management, on the contrary, in support of their claim examined one witness as MW-1.

WW-1 during his evidence disclosed that on 15-11-1964 he got his appointment at Central Jayramdih colliery as electrician in Grade-III. At the time of his appointment he was matriculate and got Wireman's certificate issued by Licencing Board, Patna. The permit issued by Govt. of Bihar to work as Electrician during his evidence was marked Ext. W-1, and School Final Certificate was marked as Ext. W-2. He submitted that in the year 1973 the management converted all the electricians of Grade-III to Category-IV and thereafter in the year 1978 he got his promotion in Category-V. He disclosed that while he got his promotion in Category-V in the year 1978 M.C. Paul got his promotion in Category-V in the year 1979 and for which M.C. Paul became junior to him. Thereafter the management by order dated 25/26-12-83 promoted M.C. Paul to Category-VI. The said order during his evidence was marked Ext. W-4. He disclosed that though the management considered the promotion of M.C. Paul did not consider his promotion

though he appeared before D.P.C. Even the management did not consider necessary to publish the result of D.P.C. He further disclosed that Kamdeo Singh and Panchanand Mahato were though Junior to him got their promotion in Category-VI. This witness during cross-examination admitted that for getting promotion in Category-VI from Category-V High Tension wiremanship Permit is essentially required. He also admitted that previous to raising industrial dispute he raised another dispute over the self-same issue through R.C.M.S., but disclosed that he was not aware whether the said dispute was ended in settlement or not.

Management, on the contrary, through MW-1 produced the settlement of industrial dispute raised by R.C.M.S. on behalf of the concerned workman. The said dispute was settled by the management and the sponsoring union in presence of A.L.C. (C), Dhanbad on 10-9-1988.

The said settlement was duly signed by the parties and A.L.C. (C), Dhanbad and witnessed by at least two witnesses. The said settlement during his evidence was marked Ext. M-1. The terms of the settlement are as follows:

"1. Since the workman, Sri P. Bihari Mukherjee is stagnating in Cat-V and has not acquired the requisite qualification viz. H.T. Certificate and Cable Joining Certificate, the management agrees to pay the difference of wages of Cat-VI for a period of two (2) years effective from 3-3-88. The union and the workman agree to accept this terms.

2. It is agreed that the workman Sri P.B. Mukherjee, Electrician will be reverted in Cat-V in the event of failure to submit the requisite statutory certificate within the period of 2 yrs. In case the aforesaid workman is also to submit the requisite certificate within the period, the management agrees to regularise him in Cat. VI with effect from 3-3-88.

3. It is agreed that report of implementation of this settlement shall be submitted within a period of 15 days failing which it will be deemed that the settlement has been implemented in all respects."

No evidence is forthcoming that said settlement which was entered between the parties in presence of A.L.C. (C) was refuted by either of the parties. On the contrary, it is seen that as per order dated 19-9-88/14-10-88 (Ext. M-2) the management released the difference of wages of Category-VI in favour of the concerned workman w.e.f. 3-3-88 to 2-3-90. It is the contention of the management that in spite of giving two years time to obtain H.T. Certificate and Cable

Joining Certificate the concerned workman has failed to procure the same. As per JBCCI Circular No. 30 dated 26-6-84 for getting promotion in Category-VI from Category-V the pre-requisite condition which is to be looked into is that the concerned workman must possess H.T. Permit for cable joining and overhead line to be issued by the competent authority applicable to mines apart from other required qualification. JBCCI circulars have come into force w.e.f. the said date. Accordingly, it is the contention of the management that there was no scope to give promotion to the concerned workman in Category-VI in view of the facts and circumstances which they have disclosed in course of evidence and also in their pleading. The concerned workman also admitted this fact. Therefore after implementation of JBCCI Circular No. 30 w.e.f. June, 1984 there was no scope on the part of the management to give promotion to the concerned workman in Category-VI without fulfilment of the condition as I have already discussed above. The concerned workman, it is admitted fact, raised the present industrial dispute ignoring the settlement which came into effect on 3-3-88. The said settlement was signed by the parties on 10-9-88. The concerned workman admitted that subject-matter of this dispute and subject-matter of the previous dispute was same and identical. It is also seen that during validity period of the settlement the concerned workman ignoring R.C.M.S. union raised the present industrial dispute through another union without refuting that settlement which was very much valid. This act of the concerned workman I should say is illegal and contrary to the ethics of the industrial dispute.

6. The concerned workman after raising the present dispute has claimed for his promotion in Category-VI w.e.f. 1983. The concerned workman during his examination admitted that promotion from Category-V to Category-VI is considered by D.P.C. He further disclosed that his juniors, namely, M.C. Paul, Kamdeo Singh and Panchanand Mahato have got their promotions in the years 1983, 1981 and 1985 respectively. He alleged that though he passed the trade test the management did not consider his promotion. The management categorically disclosed that prior to implementation of JBCCI Circular No. 30 in the year 1984 in the matter of promotion of electricians from Category-V to Category-VI, the promotion in that cadre to the workman used to be considered on the basis of merit, efficiency and skill of respective workmen. It is their specific contention that as the concerned workman during test failed to show his merit, skill and efficiency in the matter of attending to electrical breakdowns, detecting faults and rectifying the defects in the electrical circuits etc. they did not get scope to consider his promotion in Category-VI from Category-V. MW-1 during his evidence admitted that though the concerned workman could not get

promotion in Cat. VI, as per service linked upgradation scheme he was provided with the scale of Category-VI w.e.f. 1-7-89 and also the scale of Technical & Supervisory Grade 'C' in the year 1988. It is, therefore, clear that though the concerned workman did not get any promotion for lacking of his qualification as stated above the management gave pay protection under S.L.U.

7. The claim of the concerned workman as per the instant reference is for his promotion in Category-VI w.e.f. 1983 and not w.e.f. implementation of JBCCI Circular. The management have already disclosed how the promotion matter of the electricians from Category-V to Category-VI used to be considered. I have already discussed this issue above. Therefore, onus rests on the concerned workman to establish that though he was very much eligible and though he exposed his merit, skill and efficiency in the trade test and also though he passed the trade test the management ignored his promotion and acted mala fide in giving promotion to other three workmen whose names have already been mentioned above in Category-VI. I find no hesitation to say that the concerned workman has failed to produce any cogent evidence either documentary or oral to show that the management was biased in not considering his promotion to Category-VI though he was senior to other three workmen named above. It is the contention of the management that seniority is not only criteria relying on which an electrician can claim his promotion in Category-VI, requirement of merit, skill and efficiency are to be considered as prime factor to consider such promotion. As no material evidence is forthcoming that in spite of showing merit, Skill and efficiency the concerned workman was deprived of getting his promotion, no evidence also is forthcoming on the part of the concerned workman that he was alien to the management and for which the management deprived him from his legitimate claim of promotion in Category-VI.

8. In view of the facts and circumstances discussed above, I therefore hold that the concerned workman has failed to establish with all reasonableness that for the mala fide intention of the management he did not get his promotion in the year 1983 and for which I consider that the concerned workman is not entitled to get any relief in view of his prayer.

9. In the result, the following is rendered —

The action of the General Manager of Block-II of M/s. BCCL, P.O. Nawgarh, Dist. Dhanbad in denying promotion to Shri P.B. Mukherjee, Electrician from Category-V to Category-VI with effect from 1983 is justified and the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 जुलाई, 2004

AWARD

का.आ. 1976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II धनबाद के पंचाट (संदर्भ संख्या 131/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-07-2004 को प्राप्त हुआ था।

[सं० एल-20012/770/97-आई.आर. (सी-1)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 15th July, 2004

S.O. 1976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 131/2001) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 14-07-2004.

[No. L-20012/770/97-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD**

In the matter of a reference U/s. 10 (1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 131 of 2001

Employers in relation to the management of M/s. Bharat Coking Coal Ltd., Koyla Bhawan, Dhanbad

AND

Their Workmen.

PRESENT:

Shri B. Biswas,
Presiding Officer

APPEARANCES:

For the Employers : Shri U.N. Lal, Advocate.
For the Workmen : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union.

State : Jharkhand. : Industry : Coal

Dated, the 29th June, 2004

By Order No. L-20012/770/97-C-I dated 8-5-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand of Bihar Colliery Kamgar Union with the management of M/s. BCCL for regularisation of Sri M.P. Rao, Grade-I, as legal assistant is legal and justified? If so, to what relief the concerned workman is entitled?"

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

It has been submitted by the sponsoring union that the concerned workman initially got his appointment at C.M.L.W.O. as Junior Clerk-cum-Typist in the year 1978. After enactment of Coal Mines Labour Welfare Fund Repeal Act, 1986 the C.M.L.W.O. was abolished and merged with M/s. B.C.C. Ltd. After merger the concerned workman was posted in the legal department under the management at Koyla Bhawan on 7-7-87 as an Assistant. Since that date the concerned workman has been performing the duties of attending court cases at Dhanbad and as well as High Court and Apex Court, as per direction and office order issued by the competent authority. They submitted that apart from performing the jobs of legal work pertaining day to day court proceeding the concerned workman has been performing the duties of Senior Legal Inspector since long continuously also as per direction and authorisation of the management. They submitted that the concerned workman passed LL.B. examination in the year 1986 and thereafter submitted representation to the management several time for his regularisation as Legal Assistant with proper grade but to no effect. They submitted that instead of regularising the concerned workman in the post of Legal Assistant in proper grade only promoted him to the post of special Grade Clerk by order dated 25-1-99. They alleged that while the management regularised other workmen in the post of Legal Assistant ignored the claim of the concerned workman inspite of discharging his duty as Legal Assistant since long. Accordingly, they raised an industrial dispute before the A.L.C. (C) Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly submitted prayer before this Tribunal to pass award directing the management to regularise the concerned workman as Legal Assistant in appropriate grade with retrospective effect alongwith arrear of wages and other consequential benefits.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement on behalf of the concerned workman. They submitted that there is no provision for regularisation of any workman as Legal Assistant. They disclosed that the management issued a circular being No. 7294-444 dated 8/10-7-89 inviting applications from departmental candidates possessing requisite qualification and experience for their selection to fill up the vacant posts of legal assistants. In response to that circular 42 candidates submitted their applications indicating their intentions to join the posts of legal assistants in case of their selection by the management. Thereafter the management appointed a Selection Committee who conducted the written test and interview and submitted recommendation for appointment of two internal candidates in the post of legal assistants out of the 42 candidates who submitted their applications in pursuance to the aforesaid circular. They submitted that at that relevant time the concerned workman did not submit any application in pursuance of the aforesaid circular dated 8/10-7-89 and as such he was neither called for written test nor for interview. As a result there was no scope for consideration of the claim of the concerned workman for his appointment/regularisation as legal assistant, in any area or in the Headquarter, of the Company.

They submitted that the concerned workman belongs to clerical cadre and was posted in the Headquarter in the capacity of a clerk attached to the legal department of the Headquarter. He at no point of time submitted any application for his selection to the post of legal assistant in pursuance to the circular referred to above. He also did not face any written test or interview before the Selection Committee for the post of legal assistant and accordingly there was no question of getting himself selected to the post of legal assistant. It has been disclosed by the management that there was no rule of automatic change of cadre from clerical grade to legal assistant grade and also there was no rule of regularisation of a person belonging to clerical cadre in the post of legal assistant. They alleged that the concerned workman through sponsoring union is making an attempt to get his automatic promotion to the post of legal assistant without following the procedure of selection by written test as well as interview through litigation.

Accordingly, they submitted that the claim of the concerned workman which he placed through the sponsoring union has no merit at all and for which the same is liable to be rejected summarily.

Points to be decided :

4. "Whether the demand of Bihar Colliery Kamgar Union with the management of M/s. BCCL for regularisation of Sri M.P. Rao, Grade-I, as legal assistant is legal and

justified? If so, to what relief the concerned workman is entitled?"

Finding with reasons :

5. It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as WW-1 while the management also examined one witness as MW-1 in support of their claim.

Considering the evidence of MW-1 and WW-1 and also considering the facts disclosed in the pleadings of both sides there is no dispute to hold that initially the concerned workman got his appointment as Clerk-cum-Typist at C.M.L.W.O. in the year 1978. It is also admitted fact that the said organisation in the year 1986 was merged with M/s. B.C.C. Ltd. Accordingly, the concerned workman got his posting as clerk-cum-typist in the month of July, 1987 in the legal department of the management at Koyla Bhawan. WW-1 i.e. the concerned workman during his evidence disclosed that in the legal department as per direction of his superior he used to attend court cases, to meet advocates in the chamber and also to prepare comments parawise and also to assist the Advocates. He also used to check and verify the Advocates' bills submitted by them. He disclosed that not only he was entrusted to look after cases pending at Supreme Court and High Court but also he looks after the cases pending at Tribunal at Dhanbad. WW-1 further disclosed that as he was entrusted with looking after different jobs in the legal arena, he submitted representation before the management for his absorption as legal assistant, but the management did not consider his representation. This witness during his evidence admitted that he passed LL.B. examination in the year 1996. He further admitted that as in the year 1989 as well as in the year 1995 the management invited application from internal candidates for their absorption as legal assistant but as he was not law graduate at that relevant time he could not submit any such application for his absorption as legal assistant. Considering the evidence of WW-1 i.e. concerned workman it transpires clearly that his claim for his absorption as legal assistant cropped up after 1996 when he passed LL.B. examination from Vinoba Bhawe University. It is seen that the concerned workman after obtaining degree in law submitted application to the management on 28-5-96 (Ext. W-24) with a prayer for his promotion to the post of Senior Legal Inspector in Technical & Supervisory Grade 'A'. After submitting that representation he submitted another representation referring his first representation dated 28-5-96 which during his evidence was marked as Ext. W. 28 In para 2 of his said application he disclosed as follows :

"This is for your kind appreciation that on my obtaining LL.B. Degree I have applied for regularisation of my Technical Cadre from the Ministerial Cadre before the competent authority on 24-6-1996."

The intention which he disclosed in his petition as referred to above finds no whisper in his petition dated 28-5-96 (Ext. W-24). In the said petition marked as Ext. W-24 he claimed his promotion to the post of Senior Legal Inspector in Technical & Supervisory Grade 'A' and not submitted any prayer for his regularisation in the post of Legal Assistant. It is admitted fact that when the concerned workman submitted the said application he was Assistant Grade-I in clerical cadre. Thereafter the concerned workman submitted another application marked as Ext. W-29 and made his prayer for his regularisation in the legal cadre giving appropriate grade. Therefore if these three applications which the concerned workman submitted (Exts. W-24, W-28 and W-29) are taken into consideration it will expose that he took different plea at different time. In one application while he claimed promotion in legal inspector Grade 'A' in the other application he claimed for regularisation in the post of legal assistant. Actually the concerned workman was in dilemma in the matter of selection of the post in the legal department in which he intended to be absorbed. The concerned workman submitted that being satisfied with his work in the legal department the Dy. Chief Legal Manager recommended his promotion in the legal cadre to Dy. C.L.M. (Ext. W-33). Thereafter over that recommendation a note was given by Dy. C.L.M. Making quarry to the effect if there was any vacancy in the grade in which the case of the concerned workman will be considered by the Manager and whether any person from other cadre was selected in the legal cadre through test and selection by Selection Committee. It is the specific contention of the management that the channel of promotion in the legal cadre/department is (a) Legal Inspector in Technical & Supervisory Grade 'C', then (b) Legal Inspector in Technical & Supervisory Grade 'B' and thereafter (c) Senior Legal Inspector in Technical & Supervisory Grade 'A'. It is seen that the concerned workman passed LL.B. examination in the year 1996 and immediately thereafter by submitting application (Ext. W-24) he claimed his promotion to the post of Senior Legal Inspector in Technical & Supervisory Grade 'A'.

The learned Advocate for the management referring the position of the legal officers of the legal department submitted that the claim of the concerned workman for his promotion in the said post referred to above was an absurd prayer. The learned Advocate for the management further submitted that clerical cadre and legal cadre are absolutely different and for which without selection there is no scope to give promotion of any workman from clerical cadre to legal cadre. Learned Advocate further submitted

that in the year 1989 as well as in the year 1995 circulars were issued inviting application from departmental candidates having degree in law with a view to fill up the post of legal assistant in the legal department. He has been further submitted that in the year 1989 in response to that Circular 42 internal candidates having law degree appeared in the written as well as selection test for the post legal assistant and out of them two internal candidates were selected. In the year 1995 similar process was followed in the matter of selection of legal assistant. The concerned workman had no scope to appear in the said selection test as he was not law graduate at the relevant time. The claim of the concerned workman comes in as he is posted in the legal department and as he was entrusted with legal matters to look after by his superior authority. In this connection office order dated 27/28-4-95 marked Ext. W-10 as well as Ext. M-3 may be taken into consideration. The said office order is as follows :

"The following job structure of the Legal Department comes into force with immediate effect in supersession of existing arrangements. The concerned sectional heads are, therefore, advised to exchange their files in terms of their assignments."

The legal section according to this office order has been divided into two sections i.e. Section 'A'-IR (Legal) and Section 'B' - General (Legal). In Section 'B' the Sectional Head was the Manager (Legal) who was entrusted with to look after different matters as per Items No 1 to 5 with the assistance of the concerned workman and one Siyaram Singh, Sr. P.A. and Ramji Prasad, Sr. Assistant. As per the said office order the duty of the concerned workman was to submit daily report from Dhanbad Court and such other jobs as may be assigned. Therefore, it is clear that as the concerned workman was entrusted in the legal department since long as office assistant in clerical cadre as part of his duty he used to attend court and also to the chamber of the Advocates with a view to assist the legal officers in dealing with the management's case., It is the contention of the concerned workman that as he was posted in the legal department and also as he used to look after different cases pending before the Tribunal he got sufficient experience and for which his claim for his regularisation as legal Assistant stands on cogent footing. He submitted further that in the same manner the management gave promotion to Naresh Prasad and Srikantha Deb. It is the specific claim of the management that no post of legal assistant was ever filled up without selection test conducted by the Selection Committee. Therefore, onus absolutely rests

on the concerned workman to establish his claim that by-passing the selection test the management issued promotional order of these two workman in the post of Legal Inspector or Legal Assistant. I have no hesitation to say that the concerned workman in course of hearing has failed to produce a single scrap of paper with a view to substantiate his claim. Accordingly, I find no scope to support his contention in the matter of considering his such claim.

Learned Advocate for the concerned workman in course of hearing referring two decisions of the Hon'ble Apex Court submitted that the claim of the concerned workman stands on cogent footing and for which the management is liable to regularise him in the post of legal assistant. The said two cases which the learned Advocate for the concerned workman relied on are reported in 1990 Supreme Court Cases (L&S) 174 and AIR 1984. (SC) 1683. In the decision reported in 1990 SCC (L&S) 174 in connection with Bhagwati Prasad Vs. Delhi State Mineral Development Corporation, their Lordships in para 6 of the Judgement Observed as follows :

"The main controversy centres round the question whether some petitioners are possessed of the requisite qualifications to hold the posts so as to entitle them to be confirmed in the respective posts held by them. The indisputable facts are that the petitioners were appointed between the period 1983 and 1986 over since, they have been working and have gained sufficient experience in the actual discharge of duties attached to the posts held by them. Practical experience would always aid the person to effectively discharge the duties and is a sure guide to assess the suitability. The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but it is so at the time of the initial entry into the service. Once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications. In our view, three years' experience, ignoring artificial break in service for short period/periods created by the respondent, in the circumstances, would be sufficient for confirmation."

Considering the observation of the Hon'ble Court it is clear that once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to

deny them the confirmation in the respective posts. Therefore, stress should be given on the word "appointment". Here in the instant case the concerned workman got his appointment in clerical cadre and not in legal cadre. Therefore, his confirmation in the legal cadre does not arise taking the plea that he was posted in the legal department and he was allowed to take up some legal works with a view to assist the officers of the legal department. Similarly in the decision reported in AIR 1984 (SC) 1683, their Lordships observed as follows :

"Since the introduction of the Industrial Employment (Standing Orders) Act, 1946 (1946 Act for short), it has been made obligatory for the employer in an industrial establishment to prepare a draft of standing orders and get them certified under the Act. Section 4 of the 1946 Act requires the employer to make provision in the standing orders for every matter set out in the Schedule which is applicable to the industrial establishment. The Schedule provides amongst other for making provision in the standing orders for classification of workmen, for example, whether permanent, temporary, apprentice, probationer or badlis. This classification of workmen by the employer is thus made obligatory and has to be provided for the standing order. It is also well-settled that certified standing orders which have a statutory flavour prescribe the conditions of service and they shall be deemed to be incorporated in the contract of employment of each workman with his employer. Sudhir Chandra Sarkar V. Tata Iron and Steel Co. Ltd. It would therefore follow as a corollary that the employee will have to classify the workmen and failure to classify would be violative of the Act, 1946 Act. Now if there is a statutory obligation to classify workmen under the 1946 Act, the classification would be permanent, temporary, apprentices, probationers and all other known categories such of acting, officiating etc."

If the observation of the Hon'ble Court in the instant case is taken into consideration in that case it will be clear that the appointment is a pre-condition to confirm to that post. Therefore, relying on these two decisions which the learned Advocate for the concerned workman placed at the time of argument I find no scope at all to uphold his contention that the concerned workman deserves his regularisation in the post of Legal Assistant or Sr. Legal Inspector in the legal cadre directly from clerical cadre without facing selection test which the management organised on previous occasions after inviting applications from internal candidates having degree in law.

It is the contention of the management that after 1996 management did not issue any circular for filling up the post of Legal Assistant from law graduates. They submitted further that they will circulate departmentally the circular for filling up the post of Legal Assistant from departmental law graduates if the management consider so. Considering submission of the management it is clear that no post of Legal Assistant in the legal department over filled up by way of promotion. On the contrary, the same were filled up from departmental candidates who came out successfully in the selection test. The concerned workman is now working as Sr. Clerk Special Grade in the legal department. Definitely as a Sr. Clerk he is to deal with legal matters in the legal department but as he is dealing with legal matter, ipso facto, does not accrue any right to claim his regularisation directly from clerical cadre to legal cadre depriving the claim of other departmental candidates who are also equally interested to appear in the selection test for their selection in the legal department as Legal Assistant.

6. Accordingly, after careful consideration of all the facts and circumstances I hold that the concerned workman is not entitled to get any relief in view of his prayer.

7. In the result, the following award is rendered—

The demand of Bihar Colliery Kamgar Union with the management of M/S.B.C.C Ltd, for regularisation of M.P. Rao, Clerk, Grade—I as Legal Assistant is not legal and justified. Hence, the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 जुलाई, 2004

का.आ. 1977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, धनबाद, के पंचाट (संदर्भ संख्या 174/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-07-2004 को प्राप्त हुआ था।

[सं० एल-20012/521/97-आई.आर. (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 15th July, 2004

S.O. 1977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 174/98)

of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 14-07-2004.

[No. L-20012/521/97-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

Present :

Shri B. Biswas,
Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 174 of 1998

Parties : Employers in relation to the Bhowra
O.C.P. of M/s. BCCL and their
workman.

Appearances :

On behalf of the workman : Mr. S. N. Goswami,
Advocate.

On behalf of the employers : Mr. R. N. Ganguly,
Advocate.

State : Jharkhand. : Industry : Coal

Dated, Dhanbad the 18th June, 2004

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-26012/521/97-IR(C-I), dated, the 23-7-98/13-8-98.

SCHEDULE

“Whether the action of the Management of Bhowra Open Cast Project of M/s. BCCL in dismissing Smt. Bhaswa Bhuini, Ex-Wagon Loader from the services of the company w.e.f. 9-4-93 is justified? If not, to what relief Smt. Bhuini is entitled?”

2. The case of the concerned workman according to written statement submitted by her in brief is as follows :—

She submitted that she was a permanent Wagon Loader under the management at Bhowra O.C.P. since the

date of her employment. She admitted that during her long tenure of service she suddenly fell ill and for which she could not attend to the place of her duty with effect from 1-1-92. She disclosed that she duly reported her ailment to the management but in spite of getting intimation the management issued chargesheet to her on 8-8-92 illegally and arbitrarily and violating the principles of natural justice and she further alleged that thereafter management conducted domestic enquiry against her *ex parte* in spite of her physical appearance in the enquiry and accordingly they did not give any opportunity to defend her case properly. Thereafter management dismissed her from her service with effect from 9-4-93. She submitted that enquiry conducted against her by the Enquiry Officer was not fair, proper and in accordance with the principles of natural justice. On the contrary the said Enquiry Officer being biased concluded the enquiry proceeding without giving her any opportunity and submitted a perverse report against her. She disclosed that as per Circular dt. 7-5-94 guideline was framed in the matter of dismissal of any workman on the ground of absentism. According to that circular if any workman gives 75 days attendance in each year in three consecutive years prior to her dismissal management will reconsider the order of dismissal subject to ensuring regularity of attendance in future. Moreover in the said decision dt. 13-1-90 management agreed to consider the case of Scheduled Caste worker who have been dismissed in the year 1987 on the ground of long absentism but the management did not consider her case though she is a member of Scheduled Caste Community. She alleged that the action of the management was illegal, arbitrary and against the principles of natural justice. Accordingly she raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. The concerned workman submitted her prayer to pass an Award directing the management to reinstate her in service with full back wages.

3. Management on the contrary after filing Written statement-cum-rejoinder denied all the claims and allegation which the concerned workman asserted in her written statement. They submitted that the concerned workman was a permanent wagon loader of Bhowra O.C.P. who remained herself absent from duty without leave and without sufficient cause from 1-1-92. As a result they were compelled to issue chargesheet to her on 18-8-92 for committing misconduct under para 26.1.1 on the ground of absentism. In spite of receiving chargesheet on 18-8-92 she did not care to submit any explanation in reply to the said chargesheet. Accordingly, the disciplinary authority appointed enquiry officer to conduct domestic enquiry against the concerned workman. They submitted that before taking up hearing of enquiry proceeding the Enquiry Officer

issued notice to the concerned workman on 29-10-92, 13-2-93 and 18-3-93 for causing her appearance before the Enquiry Officer with a view to defend her case. They disclosed that in response to that notice on 18-3-93 she turned up in the enquiry but left the place of enquiry without any reason and without permission. Accordingly Enquiry Officer finding no other way took up hearing the matter *ex parte* and after completion of the enquiry proceeding he submitted his report holding the concerned workman guilty to the charges. It has been submitted by the management that conduct of the concerned workman in the matter of her appearance for duty was alarming. They submitted that in the year 1990 and 1991 she attended to her duties for 75, 76 days respectively while in the year 1992 she did not attend to her duty on a single day. Accordingly management submitted that order of dismissal issued by the Disciplinary authority was on justified ground and in the light of that fact they submitted that they did not commit any illegally or took any arbitrary decision in dismissing her from service. In the result, it has been submitted by the management that the claim of the concerned workman is liable to be rejected.

4. POINTS TO BE DECIDED

"Whether the action of the management of Bhowra Open Cast Project of M/s. B.C.C.L. in dismissing Smt. Bhaswa Bhuini, Ex-Wagon Loader from the services of the company w.e.f. 9-4-93 is justified? If not, to what relief Smt. Bhuini is entitled?"

5. FINDING WITH REASONS

It transpires from the record that neither management nor the concerned workman adduced any oral evidence with a view to substantiate their claim and counter claim while hearing on preliminary point was taken up to consider if domestic enquiry conducted against the concerned workman was fair, proper and in accordance with the principles of natural justice. It transpires from the record that the concerned workman on the contrary admitted the domestic enquiry proceeding as fair, proper and in accordance with the principles of natural justice and admitted the documents which the management relied on. The said documents during hearing on preliminary point were marked as Ext. M-1 to M-1/13. As it has been decided in course of hearing on preliminary point vide order No. 11 dt. 24-3-2004 that domestic enquiry held against the concerned workman was fair, proper and in accordance with the principles of natural justice at this stage I do not find any reason to rediscuss that issue further.

Here the point for consideration is whether the management have been able to substantiate the charge brought against the concerned workman and if so whether the concerned workman is entitled to get any relief under Section 11A of the I.D. Act, 1947 in connection with the punishment imposed on her. It transpires from the record that in course of hearing on preliminary point the chargesheet which was issued to the concerned workman was marked as Ext. M-1. Considering the documents marked as Ext. M-1/1, M-1/2 and M-1/3 I find no dispute to hold that before taking up enquiry proceeding by the Enquiry Officer notices were sent to the concerned workman. It has been submitted by the management that on 18-9-93 the concerned workman appeared before the Enquiry Officer at the time of enquiry proceeding but she left the enquiry without any reason and without permission of the Enquiry Officer. Concerned workman in her Written statement admitted the fact of her presence before the Enquiry Officer on 18-9-93 but did not assign any reason why she left the place of enquiry without taking permission of the Enquiry Officer. Accordingly there is sufficient reason to hold that the concerned workman had full knowledge about the enquiry proceeding conducted by the Enquiry Officer. It is seen from the chargesheet that the concerned workman started remaining herself absent from duty with effect from 1-1-92 without assigning any reason and also without giving any intimation to the management. The chargesheet was issued on 8-8-92. Therefore, for long 7 months 8 days the concerned workman remained herself absent from duty without assigning any reason and also without giving any intimation to the management. On the contrary it is the submission of the concerned workman that she was forced to remain absent from duty with effect from 1-1-92 as she fell ill suddenly. She disclosed that she intimated the management about her illness. Therefore, considering the submission of the concerned workman it transpires clearly that on the ground of her illness she could not attend to her duty with effect from 1-1-92 till the date of issuance of chargesheet. In course of hearing before the Enquiry Officer the concerned workman had ample scope to produce necessary medical papers to substantiate her claim but she did not consider necessary to do so. Even in course of hearing before this Tribunal she had the scope to submit relevant medical papers in support of her ailment. She disclosed that she intimated the fact of her ailment to the management but to substantiate that claim she also did not consider necessary to adduce any evidence. On the contrary it

is the specific allegation of the management that not only during the year 1992 but also in the year 1990 and 1991 the attendance of the concerned workman for her duty was very much deplorable. They submitted that during the year 1990 the concerned workman attended her duty for 76 days while in the year 1991 she attended to her duty for 27 days. This fact came into light when J.K. Singh, Bill clerk made his statement before the Enquiry Officer relying on the official documents. Therefore, it is clear that it was the habit of the concerned workman to remain herself absent from duty without assigning any reason. Her act accordingly, there is scope to say, was absolutely whimsical in the matter of her attendance. It is the specific allegation of the concerned workman that the Enquiry Officer did not give any opportunity to defend her case properly. The allegation, I consider, appears to be without any merit because of the fact the concerned workman at the time of hearing of the enquiry matter left without giving any intimation to the Enquiry Officer. Therefore, I should say that it was not the management but for the whimsical act of the concerned workman the Enquiry Officer was forced to conclude the enquiry proceeding *ex parte*. It is seen that for consecutive three years attendance of the concerned workman was absolutely deplorable. The concerned workman did not consider necessary to assign any reason. I have already discussed above that in the instant case the concerned workman has failed to produce a single scrap of medical paper to show that she was actually lying ill and for which she could not attend to her duty. It is seen that after completion of the hearing of the Enquiry proceeding the Enquiry Officer submitted enquiry report to the management which was marked as Ext. M-1/9. I have carefully considered the enquiry report as well as relevant papers relating to enquiry proceeding and I am satisfied that free from all business the enquiry officer conducted the enquiry proceeding and submitted his report holding the concerned workman guilty to the charges. After careful consideration of all the facts and circumstances I hold that the management have been able to establish the charge brought against the concerned workman. It is seen that the disciplinary authority after considering the enquiry report and also other material papers dismissed the concerned workman from her service. The order of dismissal during evidence was marked as Ext. M-1/10.

Now the point for consideration is whether the concerned workman is entitled to get any relief under

Section 11A of the I.D. Act, 1947. Section 11A speaks as follows :—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceeding, the Labour Court, Tribunal or National, tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

Therefore, onus absolutely rests on the concerned workman to establish that order of dismissal passed by the management was not justified and also it was absolutely disproportionate in relation to the offence committed by her according to the charge issued by the management under para 26.1.1 of the Certified Standing Order. It is seen that after order of dismissal the concerned workman had the scope to prefer an appeal before the Appellate Authority with a view to reconsider the punishment inflicted on her but she did not consider necessary to prefer such appeal. On the contrary she disclosed that as per decision of the management the question of dismissal of a workman on the ground of absentism only will be considered if it is seen that the said workman for consecutive three years before passing the order of dismissal did not work for more than 75 days in a year. She further submitted that the management should take lenient view before dismissing a female worker who is a member of Scheduled Caste. It transpires from the enquiry report that the concerned workman of consecutive three years i.e. during 1990, 1991, and 1992 gave her attendance for 76 days, 27 days respectively while in the year 1992 she did not attend to her duties for a single day. Therefore, if it is taken into consideration there is sufficient reason to believe that the concerned workman was in the habit of remaining herself absent from duty without assigning any reason. In the instant case she took the plea of her ailment though onus was on her to substantiate that claim. Therefore, there is reason to believe that the concerned workman with a view to get relief took false plea of her ailment.

It is to be taken into consideration that the concerned workman was a permanent wagon loader and for prolonged absence from duty management did not get any scope to take her service continuously. Learned Advocate for the management submitted that for the said reason they sustained loss. It is the contention of the concerned workman that she is entitled to get extra benefit being Scheduled Caste worker of scheduled caste community and for which the order of dismissal is liable to be quashed. There is no dispute to hold that the concerned workman comes from the backward community and accordingly she got some privilege in the service but it is unheard of that as she is a member of backward community she has got the liberty to remain herself absent of her choice hampering the production of the management. In support of that claim the concerned workman relied on the circular dt. 13-1-90 but she did not consider necessary to produce the said circular for consideration of the Tribunal. I consider that a workman should be duty bound so long she or he remains in service. Indiscipline act on her/her part only may affect production but also it may create an impact in the mind of other co-workers. It is clear that attendance of the concerned workman for consecutive three years was absolutely deplorable and for which management was forced to issue chargesheet against her. In spite of receiving the said chargesheet she did not consider necessary to give any reply assigning the ground of her absence. She also did not consider necessary to face the enquiry proceeding. These acts definitely should be considered as whimsical on the part of the concerned workman. Accordingly after careful consideration of all the facts and circumstances discussed above I hold that the order of dismissal issued by the management was justified and for which I do not find any scope to modify the order of punishment imposed on her relying on the provision as laid down under Section 11A of the I.D. Act. Accordingly the concerned workman is not entitled to get any relief.

In the result, the following Award is rendered :—

“Whether the action of the Management of Bhowra Open Cast Project of M/s. B.C.C.L. in dismissing Smt. Bhaswa Bhuini, Ex-Wagon Loader from the services of the company w.e.f. 9-4-93 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 जुलाई, 2004

का.आ. 1978.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एअर-लाइंस लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली के पंचाट (संदर्भ संख्या-47/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-7-2004 को प्राप्त हुआ था।

[सं० एल.-11012/10/94-विविध/आई.आर. (सी.-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 15th July, 2004

S.O. 1978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/96) of the Central Government Industrial Tribunal/Labour Court, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Air Lines Ltd., and their workman, which was received by the Central Government on 14-7-2004.

[No. L-11012/10/94-M/IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: NEW DELHI

Presiding Officer : Shri S.S. Bal

I.D. No. 47/96

In the matter of dispute between :

Shri Harkesh,
Safai Karamchari No. 273317,
Indian Airlines,
I.G.I. Airport,
New Delhi
R/o. H. No. 62, Chhattarpur,
New Delhi.

.....Workman

Versus

The Chief Engineering Manager,
Indian Airlines,
I.G. I. Airport,
New Delhi.

.....Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/10/94-I/R. (Vividh) Coal-I) dated 23/24-4-96 has referred the following Industrial Disputes to this Tribunal for adjudication :—

“Whether the action of the management of Indian Airlines now Indian Air Lines Ltd., in terminating the services of Shri Harkesh, Ex-Safaiwala is legal and justified? If not, to what relief is the workman entitled?”

2. Briefly stated facts of this case as culled from the record are that the workman Shri Harkesh was initially employed as sweeper on daily basis by the management in the year 1964 and was ultimately absorbed as permanent employee in September, 65 and he has been working with the management in the said capacity till his dismissal on 1-4-93. It appears that the workman was in the habit of absenting himself from duty unauthorisedly and ultimately he was given show cause notice dated 3-11-92 during the year 1999 for remaining absent from duty unauthorisedly for 51 days and then again asked to give reply to show cause notice vide letter dated 26-11-92. He was charge-sheeted, enquiry was conducted and he was found guilty of the charges and thus he was imposed penalty of dismissal of service by the competent authority and was dismissed from service. The workman claimed that the action of dismissal from service is not justified, legal and that he had to often take leave, due to illness of his wife and his own illness and that the management marked him absent with mala fide intentions and ultimately took action with ulterior motives and dismissal order is also mala fide.

3. The management contested claim of the workman by filing reply and justified its action.

4. Both the sides adduced evidence and I have heard learned counsel for both the parties at length after evidence was closed and perused the record thoroughly.

5. The perusal of the record shows that the workman was charge-sheeted for remaining absent for 51 days during the year 1991 and enquiry on charges of absence without leave or over staying sanctioned leave was up-held. The evidence was recorded in his presence. He was offered opportunity to defend himself. Management evidence was recorded in his presence. He was explained the charges. He submitted some (10) medical certificates which were taken on record and the enquiry officer found that the workman remained absent for 51 days during the year 1991. Out of these 51 days he applied for leave for 21 days but the same could not be granted as there was no leave left in his account. For the remaining 30 days he did not even apply for any leave. Enquiry Officer found that the charge was proved against him and the matter was put up before Disciplinary Authority for awarding punishment and the disciplinary authority imposed penalty of dismissal. He was thus dismissed from service. I do not find any legal infirmity in the enquiry as claimed by the learned counsel for the applicant workman and hold that the enquiry was properly conducted.

6. Learned counsel for the workman also contended that the punishment awarded was very harsh. The workman is a poor man and that he could be awarded lesser punishment charge is found proved against him and he is not exonerated.

7. Taking into consideration that the workman is illiterate and poor man and that his wife was ill and he also submitted some medical certificates in respect of illness of

his wife as mentioned in the enquiry report though such medical certificates are not available on record. The charge proved against him is that he remained absent authorisedly for 51 days during the year 1991. The punishment of dismissal from service for remaining absent appears to be harsh on the face of it. This period of absence of 51 days for which the workman remained absent be treated as extra ordinary leave as dies non. Justice will be met if he (the workman) is awarded lesser punishment of stopping two increments from his pay. Therefore, it is ordered that the dismissal order of workman is set aside and he is ordered to be reinstated from the date of dismissal with back wages. It is also ordered that the two increments be withheld stopped from his wages with cumulative effect for a period of 2 years. and he is also warned not to remain absent in future. Award is given accordingly.

Dated: 30-6-04.

S.S. BAL, Presiding Officer

नई दिल्ली, 19 जुलाई, 2004

का.आ. 1979.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फार्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या-6/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-7-2004 को प्राप्त हुआ था।

[सं० एल-14012/32/98-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 19th July, 2004

S.O. 1979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/99) of the Central Government Industrial Tribunal/Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Military Farm, and their workman, which was received by the Central Government on 19-7-2004.

[No. L-14012/32/98-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: NEW DELHI

Presiding Officer : Shri S.S. Bal

LD. No. 6/99

In the matter of dispute between :

Shri Shyam, S/o Shri Prehlad,
C/o Naithani School,
Hathi Barkla, Dehradun
& C/o Bhartiya Mazdoor Sangh, 32,
Chakrourtha Road, Dehradun-248001.

.....Workman

Versus

Officer-in-Charge, Military Farm,
Gadhi Cantt., Dehradun Cantonment,
Dehradun-248001.

Management

PRESENT: None

AWARD

The Central Government in the Ministry of Labour vide its order No. L-14012/32/98/IR(DU) dated 30-11-98 has referred the following Industrial Dispute to this Tribunal for adjudication :—

“Whether the action of the management of Military Farm, Dehradun in terminating the services of Shri Shyam is legal and justified? If not, to what relief the workman is entitled?”

2. Reference was received and registered on 4-1-99 and it was adjourned to 15-2-99 for filing claim statement. On 15-2-99 none appeared for workman and Shri Sukhbir LDC appeared for management and notice to workman was ordered to be issued for 12-4-99. On 12-4-99, 1-7-99, 26-8-99 & on 26-10-99 the post of P.O. was lying vacant and case was fixed for 27-12-99 or further proceedings. On 27-11-99 on 27-12-99 none was present and notice to parties was issued for 7-2-2000. On 7-2-2000 Shri Kamlesh Srivastav appeared for workman and none appeared for Mgt. Claim with authority letter filed and notice to management was issued for 10-4-2000 for filing W.S. on 10-4-2000, 22-6-2000, 18-8-2000, 27-10-2000, 29-12-2000, 23-3-2001, none appeared for parties and case was fixed for 31-5-2001 for filing W.S. on 31-5-2001 none for workman appeared and Shri Ram Chander appeared for the management and filed written statement and for rejoinder case was adjourned to 13-8-2001. Again from 13-8-2001 to 30-4-2003 about 8 adjournments have been given for filing rejoinder but none for parties appeared and later on Shri Shyam appeared and copy of W.S. supplied to workman and case was fixed for filing rejoinder on 12-6-03. On 12-06-03 None appeared but rejoinder of workman received by registered post on 3-6-03 and for filing of documents case was adjourned to 15-9-03. On 15-9-03, 16-12-03 and 16-2-04 none for the parties appeared and case was adjourned to 29-4-04. On 29-4-04 workman appeared in person and case was fixed for filing documents, admission denial on 14-7-04. Today again none is present for either parties. It appears that the workman is not interested in pursuing this dispute. Hence no dispute award is passed in this case. Award is given accordingly.

Dated: 14-7-2004.

S.S. BAL, Presiding Officer

नई दिल्ली, 20 जुलाई, 2004

का.आ. 1980.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. कोलीहान कॉपर माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या-11/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं० एल-29012/89/2002-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th July, 2004

3.O. 1980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2003) of the Central Government Industrial Tribunal-cum Labour Court Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Kolihan Copper Mines and their workman, which was received by the Central Government on 20-07-2004.

[No. L-29012/89/2002-IR (M)]

B.M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT: JAIPUR

Case No. CGIT-11/2003

Reference No. : L-29012/89/2002-IR(M)

Sh. Brahmanand,
S/o Shri Yadram Jaat,
P.O. Near Railway Crossing Singhana,
Jhunjhunu (Raj.)

.....Applicant

Versus

M/s. Kolihan Copper Mines,
Hindustan Copper Ltd.,
Khetri Copper Complex,
Khetri Nagar, Khetri,
Rajasthan.

.....Non-applicant

PRESENT:

Presiding Officer :	Sh. R.C. Sharma
For the applicant :	Sh. S.P. Singh
For the non-applicant :	Sh. Rajiv Sharma
Date of award :	30-06-2004

AWARD

The Central Government has referred this dispute under Sub-sections 1 and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act', 1947) for adjudication to this Tribunal which runs as under :—

"Whether the action of the management of Kolihan Copper Mines of Hindustan Copper Ltd., Khetri Nagar in terminating the services of Shri Brahmanand S/o Shri Yadram w.e.f. 21-04-2000 justified? If not, to what relief the concerned workman is entitled and from which date?"

2. The workman in his statement of claim has pleaded that he was posted as Laboratory Attendant in Kolihan Copper Mines who was chargesheeted on 18-4-86 and on the basis of the enquiry report, his service was terminated w.e.f. 21-4-2000. He unsuccessfully preferred the departmental appeal and thereafter raised an industrial dispute wherein the Conciliation Officer submitted the failure report to the Central Govt. While assailing the termination order, the workman has further averred that on the basis of the enquiry the charge has not been proved against him and the enquiry officer has based his findings beyond the facts on the record and has given the perverse findings. He has urged that the termination order may be

set aside and he may be reinstated in service with consequential benefits.

3. On behalf of the management, the claim has been contested and it has been averred in the written statement that the workman in conspiracy with Sh. Mahavir Prasad and another removed 284 copper stripes weighing about 260 kg worth Rs. 33,800/- and while stealing them Sh. Mahavir Prasad was caught red handed on the spot, but the workman himself has escaped from there. It has been further stated that the charge levelled against the workman is fully established on the basis of the evidence and materials available on the record.

4. In the rejoinder, the workman has reiterated the facts as stated by him in the statement of claim.

5. At the time of hearing on the preliminary issue of fairness of domestic enquiry, the Ld. representative for the workman did not assail the fairness of the enquiry. Consequently, both the parties were heard on the merit of the case.

6. I have gone through the record.

7. While assailing the charge levelled against the workman, the Ld. representative for the claimant contends that the workman had denied the charge during the course of the enquiry and the management witnesses have not named him at the time of the commission of the misconduct. The Ld. representative urges that the conclusions arrived at by the enquiry officer are perverse.

8. Arguing contra, the Ld. representative for the management submits that on the basis of the evidence recorded by the enquiry officer during the course of the enquiry, the charge against the workman stands proved. His next contention is that the defence witnesses examined by the workman are unreliable. The Ld. representative has supported the enquiry report submitted by the enquiry officer.

9. I have bestowed my anxious consideration to the rival contentions.

10. The chargesheet dated 18-4-96 reads that the delinquent on the night of 11-4-96 at about 9.30 pm in league with Sh. Mahavir Prasad and another person removed the copper stripes, who were throwing it outside the boundary of the company. Sh. Mahavir Prasad was caught red handed by the security guards on the spot but the delinquent managed to flee away from the place of incidence. He was charged with the misconduct under Section 39(2)(3) and 39(2)(9) of the standing orders of the company.

11. The management, to substantiate the charge, examined as many as six witnesses, whereas in the defence the delinquent examined two witnesses. He himself also appeared during the course of the enquiry. The delinquent had adopted the plea of alibi that on the night of the occurrence, he had gone to Bhadunada Khurd to see his Brother-in-law.

12. The enquiry officer in his report dated 2-2-2000 has arrived at a conclusion that the charge imputed against the workman is found to be established on the basis of the circumstantial evidence available on the record.

13. Coming to the evidence adduced by the management, it may be pointed out that the management had examined six witnesses in support of its case, amongst them MW-1 Sh. Mohan Lal, Lance Naik, MW-2, Sh. DP Nagbanshi, Inspector MW-5 Sh. N. Ashok, Constable and

MW-6 Sh. Mahavir Prasad are the eye-witnesses. MW-3 Yashin Khan, Sub Inspector CISF, has stated that on intimation of this incidence he reached on the spot where he found that one person was caught hold along with 28 copper stripes while removing them. According to his evidence, that person was Sh. Mahavir Prasad whose statement was recorded by him and who also told that they intended to take away these copper stripes in the jeep belonging to Sh. Brahmanand. In the cross-examination, he has admitted that he had not seen any other person other than Sh. Mahavir Prasad on the place of incidence and he had received the information of the commission thereof at his residence.

14. MW-1, Sh. Mohan Lal has stated in his deposition that Sh. Mahavir Prasad had told him the only name of Sh. Rohtas who was involved in this commission of incidence and has denied to see the delinquent on the spot. MW-2, Sh. D.P. Nagbanshi has also disclosed the same facts who has too denied to see the delinquent on the spot. MW-5, Sh. N. Ashok has denied to see the alleged incidence and has categorically stated that he had not seen the delinquent on the spot. MW-6, Sh. Mahavir Prasad had pleaded total ignorance with regard to the commission of the incidence.

15. Thus, it is crystal clear that none of the witnesses has named the delinquent in the evidence and has not disclosed that he was present on the spot. So far as the circumstantial evidence against the delinquent is concerned, on a close scrutiny of the materials and evidence available on the record, I find that there is no circumstantial evidence on the basis thereof the delinquent can be linked with the guilt and the findings arrived at by the enquiry officer appear to be perverse and are not sustainable. The contention canvassed on behalf of the workman is thus sustainable.

16. After holding that there is no iota of evidence—direct or circumstantial—against the workman to connect him with his guilt, I do not consider it necessary to go into the question of the reliability of the defence evidence. Nothing has surfaced in the cross-examination of the defence witnesses which may suggest that the delinquent was involved in the alleged incident. Moreover, in defence the delinquent is only required to give a reasonable explanation in respect of his guilt.

17. For the foregoing reasons, the charge of misconduct levelled against the workman could not be proved by the management and the conclusions drawn by the enquiry officer are perverse. Hence, the claim of the disputant deserves to be allowed.

18. In the result, the reference is answered in the affirmative in favour of the workman and against the management in the terms that the termination order of the workman dated 21-4-2000 is illegal and unjustified and that he is entitled to be reinstated in the service with its continuity and 50 per cent of the back-wages. An award is passed accordingly.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 20 जुलाई, 2004

का.अ. 1981.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार सेन्ट्रल वेयरहाउसिंग कार्पोरेशन के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक

अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या-22/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं. एल.-42011/5/98-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th July, 2004

S.O. 1981.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/99) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Warehousing Corpn. and their workman, which was received by the Central Government on 20-07-2004.

[No. L-42011/5/98-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri Kuldeep Singh

Case No. I.D. 22/99

The General Secretary, Central Warehousing Corporation Workers Union, 309, 3rd Floor, 92, Nehru Place, New Delhi-110019.Applicant

Versus

The Regional Manager, Central Warehousing Corporation, Regional Office, S.C.O. 84-85, Sector 17, Chandigarh.Respondent.

REPRESENTATIVES

For the workmen : Shri M. M. Putney

For the management : Shri Pardeep Sharma

AWARD

(Passed on 29th June, 2004)

The Central Government, Ministry of Labour vide Notification No. L-42011/5/98/IR(M) dated 21-12-1998 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Warehousing Corporation through its Regional Manager (Pb) Region, Chandigarh, in issuing transfer orders dated 7-7-1997, 5-3-1998 and 17-3-1998 constitute unfair labour practice under Industrial Disputes Act, 1947? If so, to what relief the affected workmen/Union are entitled to?"

2. Authorised representative of the Union today has made the statement that he has been instructed by his client to make a statement that the parties have compromised and the petitioners have been given the relief which they were claiming from the respondent, therefore, they do not press their claim for final adjudication and withdraw the same. The authorised rep. of the management also endorsed the statement of the rep. of the workmen. In view of the above the reference is returned as not pressed and withdrawn. Let the Central Govt. be informed for further necessary action.

Chandigarh

KULDIP SINGH, Presiding Officer

29-6-2004

नई दिल्ली, 21 जुलाई, 2004

का.आ. 1982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-II, धनबाद के पंचाट (संदर्भ संख्या 48/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-07-2004 को प्राप्त हुआ था।

[सं० एल-40012/45/2003-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 21st July, 2004

S.O. 1982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2003) of the Central Government Industrial Tribunal/Labour Court No. II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 21-07-2004.

[No. L-40012/45/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT: Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 48 of 2003

PARTIES: Employers in relation to the management of Bankipore Head Office and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : None

State : Jharkhand Industry : Post.

Dated, Dhanbad, the 5th July, 2004

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40012/45/2003-IR (DU), dated, the 20th June, 2003.

SCHEDULE

"Whether the action of the management of Postal Department Office of Senior Post Master, Bankipore, Head Post Office, Patna in illegally terminating the services of Sh. Nakul Prasad workman justified? If not, to what relief is the workman entitled?"

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. None also appeared on behalf of the management. It transpires from the record that the instant case is pending since 2003 for disposal. It also further reveals from the record that sufficient opportunities were given to the parties but inspite of giving all the opportunities the parties have failed to turn up before this Tribunal and even they did not consider necessary to submit Written Statement on their behalf. Gesture of the parties if looked into will expose clearly that they are not interested to proceed with the hearing of this case. This Tribunal also finds no reason to adjourn the case *suo moto* for days together for taking steps by the parties. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1983.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 4/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/142/2002-आई.आर.(बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 20-07-2004.

[No. L-12012/142/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT:

Shrikant Shukla, Presiding Officer

I.D. No. 4/2003

Ref. No. L-12012/142/2002/IR (B-II) dt. 24-10-02

Between

Sh. Vijay Bhadur Yadav S/o Dudhi Nath Yadav, Village Marui Krishandasapur,

Dr. Podhan Rampur, Sultanpur

AND

The Regional Manager, Central Bank of India, Regional Office, Lanka, Varanasi, U.P.

AWARD

The Govt. of India, Ministry of Labour vide their order No. L-12012/142/2002/IR (B-II) dated 24-10-2002 referred the following dispute for adjudication :

“Whether the action of the the management of Central Bank of India, in Terminating the Services of Sri Vijay Bahadur Yadav w.e.f. 1-4-1999 is legal and Justified? If not, what relief the workman is entitled to?”

The worker Vijay Bahadur Yadav vide his authority letter A1-6 appointed Sri Annuridh Prasad, Advocate High Court Lucknow Bench, Lucknow and has also filed the statement of claim paper No. 7.

Opposite party has filed its written statement alongwith affidavit A2-13.

The admitted facts are that Sri Vijay Bahadur Yadav was engaged since 29-6-98 to 31-3-99.

According to the worker, he was appointed as Safaiwala in Central Bank of India, Suithakala Branch District Jaunpur on 29-6-98 and he performed his duties as such without break since 29-6-98 to 31-3-99. Though the nature of the work was of permanent nature but he was appointed as daily wager. The employer never wanted to appoint him on the permanent basis and therefore they did not provide the letter of appointment to him nor he was made aware of the conditions of the service. The worker has alleged that he has worked for 240 days before his termination, he has also alleged that he has not given any notice nor salary in lieu of notice and even he was not given any compensation before his termination. The worker has alleged that after his termination he had various occasions orally and in writing represented to the management but they never paid any head. The worker has alleged in the above circumstances he filed two writ petitions No. 48364/99 and 22717/2000 and according to the order of the High Court he has filed the present case before Asstt. Labour Commissioner (C). He has also stated that he is not employed and there is no source of his livelihood therefore he should reinstated with continuity in service with back wages.

The opposite party has filed the written statement alongwith affidavit A2-13. The employer has objected the reference on the following grounds :

1. Reference order is without jurisdiction and bad in law.
2. Present matter is not industrial dispute.
3. Reference order suffers from serious laches of non-joinder of necessary party.

Besides taking above legal pleas the employer has also refuted the claim on following grounds :

1. Worker has no lien or right on any permanent or regular post in the bank.
2. The bank had never terminated the services of the worker from service from 1-4-99.

3. Sri Vijay Bahadur Yadav is not a workman within the meaning of Section 2(s) of the I.D. Act, 1947.
4. It is neither a case of termination nor discharge nor retrenchment under the I.D. Act 1947.
5. Sri Vijay Bahadur Yadav was engaged on casual basis and he had no lien or right on any post nor he had any substantive right to continue on any post.
6. Sri Vijay Bahadur Yadav had never worked on the post of Safai Karmchari in the bank.
7. Sri Vijay Bahadur Yadav is not an member of any union.
8. Sri Vijay Bahadur Yadav has discontinued casual job of his own accord without giving any information to the bank for better engagement elsewhere.
9. No appointment letter was issued to the workman for casual engagement in the bank nor termination letter has been issued to him.
10. It is a individual dispute and not a collective dispute.
11. Working hours of the work was not fixed by the bank and it is depending on his sweet will and he had never worked on full time basis on the post of Safai Karmchari in the bank.
12. There has never any espousal according to law.

During the period of 29-6-98 to 31-4-99 the worker has worked for only 86 days in the bank premises and High Court, Allahabad have also not found any merit in the case and worker does not fall in the category of worker.

The employer has therefore requested that the court be hold that the present reference order is without jurisdiction, incomplete, infructuous, ambiguous bad in law and Sri Vijay Bahadur Yadav is neither entitled to reinstatement nor he is entitled to any relief whatsoever.

It has also been requested that the court should be hold that Sri Vijay Bahadur Yadav is not a workman within the meaning of section 2(s) of the I.D. Act. 1947.

The worker has filed following documents in support of his case :

1. Photo copy of letter of Branch Manager address to Regional Manager, Varanasi dt. 13-10-1998 paper No. 11/3.
2. Photo copy of written statement of Regional Manager filed before the Asstt. Labour Commissioner (C), Allahabad dt. 22-7-02 paper No. 11/4 & 11/5.
3. Photo copy of letter of Branch Manager dt. 9-2-2000 address to Vijay Bahadur Yadav with reference to his letter dated 14-12-99 informing him that he has worked for 86 days paper No. 11/6.
4. Photo copy of letter of Asstt. Regional Manager Sri A.K. Khanna dt. 30-10-98 paper No. 11/7.
5. Photo copy of the order of the High court, Allahabad passed in writ petition No. 22717/2000 paper No. 11/10 & 11/11.

6. Photo copy of Jt. Secretary Employees Welfare Association address to Regional Manager.

The opposite party i.e. employer has filed photo copy of Branch Manager letter dated 9-2-2000 the copy of which has been filed by the worker which is paper No. 11/6

1. Photo copy of payment vouchers from 29-6-98 to 1-12-98 relevant to Vijay Bahadur Yadav 14/4 to 14/50.
2. Photo copy of acknowledgement address to Vijay Bahadur Yadav dt. 17-12-2000.

The worker examined himself on 2-12-2003 and he was cross-examined by the representative of the opposite party and the next date was fixed 2-3-2004. On 2-3-2004 was holiday for Idd and their case was taken up on the next day i.e. 3-3-04 but the worker remained absent. On 3-3-04 fixed but the worker remained absent on that day too and in the circumstances the employer examined its witness and the next date was fixed 21-5-04 for argument. Several other dates were also fixed for argument i.e. 25-6-04, 29-6-04 and 12-7-04 but the worker did not turned up. However, the employer has filed his written argument i.e. A2-23, therefore heard only employer representative and perused the evidence on record.

Opposite party has taken legal pleas that reference order is without jurisdiction and bad in law and the present matter is not a industrial dispute and the order of reference suffers serious laches, Vijay Bahadur Yadav is not a workman but no argument was forwarded by the representative of the employer as to why the reference is bad in law and why reference is without jurisdiction Employer has also alleged that matter is not a industrial dispute it has also not been pointed out as to how the reference suffers from laches of non joinder of necessary party. The employer has not argued on legal issues on their behalf.

The dispute has been referred in which Vijay Bahadur Yadav is himself a party it has not been espoused by any union it can not be said that Vijay Bahadur Yadav is not a member of union therefore the reference is not maintainable. The reference is perfectly in order. There is no illegality in the reference all together. Now I come to the facts of the case Vijay Bahadur Yadav in his cross-examination on oath has admitted that he was being paid on daily wages sometimes @ Rs. 15/- per day and sometimes @ Rs. 25 per day. He has clearly stated on oath that he was engaged on daily wage basis and he was not given any appointment letter but maintained it that he has worked 276 days before his termination. He has also admitted that his job was to clean the branch office. He has also stated that the branch of the bank situated in a hall and the cleaning work was for 2 to 3 hours a day. However, he says that during the course of transactions in the bank.

The worker has also stated on oath that he never worked on permanent basis he has also alleged he neither applied for job.

On the other hand employer has examined

Sri B.B. Singh Branch Manager, Swathikalan, Jaumpur. The Branch Manager has stated that as Safai Karmchhari Vijay Bahadur Yadav used to work for 2 to 3 hours per day. He has also stated that he has not given any appointment letter. He has also stated that worker never applied for the post nor any test and interview was conducted. He has also stated that his name was for sponsored by the Employment Exchange. Branch Manager has also proved that worker was not given any termination letter. At the end Branch Manager has stated that during the course of his service he has worked for 86 days. The statement of B.B. Singh that the worker worked 86 days in his tenure is proved. The above facts finds supports from the photo copy of the vouchers filed by the management.

The employer representative has relied upon 1990. Vol. 60 F. L.R. page 672 the Manager State Bank of Indore, Kanpur and Presiding Officer Industrial Tribunal (Central) Kanpur and others and has stated that absence of any appointment order there can not be any termination nor it can be alleged that termination is bad. The representative of the management has argued that due to exigencies of the work the worker was engaged only 2 to 3 hours a day and since the branch of the bank situated in a small hall therefore the amount of Rs. 15 and 25 per day was proper for that work. The worker was never engaged for the whole day.

The employer representative has filed 1997 Vol. 76 F. L.R. page 237 (Supreme Court) Himanshu Kumar Vidyarthi and others and State of Bihar where in it was held that services of a daily wagger a temporary employee terminated has no right to the post. The representative has argued that the Supreme Court of India has held that the services of a daily wagger if dis engaged is not arbitrarily. The said case law is not applicable to the facts of the present case. Hon'ble High Court has hold that every department of Government can not be treated as industry. In the said case law of State of Bihar is partly and not industry.

Learned representative of the employer has argued that it was for the worker to prove that he has worked for 240 days the burden on the worker. The worker has fail to prove that he has worked for 240 days. He has relied upon 2002 Vol. 94 F. L.R. 179 the Range Forest Officer and S.T. Hadimani, the relevant portion of the said case law is re-produced below :

(2002 (93) FLR 179)

SUPREME COURT

B.N. KRIPAL AND ARUIT PASAYAT. II

Civil Appeal No. 1283 of 2002 with CA No. 1284 02

February 15, 2002

Between

The Range Forest Officer

and

S.T. HADIMANI

“Award-By Labour Court-By holding that respondent has worked for more than 240 days and services of respondent were terminated without paying retrenchment compensation Onus to prove that respondent has worked for more than 240 days is not on management Claimant has to lead evidence to show that he has worked for 240 days Filing an affidavit is not sufficient-Award is therefore, set aside.

In our opinion, the tribunal was not right in placing the onus on the Management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for his period was produced by the workman. On this ground one, the award is liable to be set aside.”

The learned representative of the employer has also cited 1991 Vol. 62 FLR 350 State of U.P. and others and Kaushal Kishore Shukla this case law also does not pertain to I.D. Act. it pertains to the State of U.P. Similarly the representative of the opposite party has also filed the case of state government they are as follows :

1. 1991 Vol. 62 350 Triveni Shanker Saxena & State of U.P. and others
2. 1993 Vol. 63 FLR page 613 (Allahabad High Court) Rajesh Kumar Awasthi and D.F.O. Special Forestry Division Fatehpur and others

The representative of the employer has tried to mixed state government services to the industrial worker. The said case law should not have been cited in the case of industrial worker working in the industry.

The representative of the employer has also relied upon on 1992 Vol. 64 FLR page 1110 (Supreme Court) Delhi Development Horticulture Employees Union and Delhi Administration Delhi and others. The said case law is pertains to Jawahar Rozgar Yojna in which petitioner claimed for regularisation. This case law is not applicable in the present case. The representative has also cited case law Prempal Sharma and District Judge Badaun 1993 Vol. 66 FLR page 748 the case pertains to a employee of the district court which can not be covered under the industry. Lastly representative of the employer has cited two case law 767 Rajesh Sharma 2000 Vol. 87 FLR page 767 and Presiding Officer Labour Court and another. The representative has stated that banks has norms to select the class IV employees

only whose names was sponsored by the Employment exchange. It is admitted that workman was not sponsored by the Employment Exchange. Due to the exigencies of the work services of the worker was taken on daily wages and his services came to end on the expiry of the day and since there was no appointment.

The case is relevant to the fact of the present case. In the facts of the present case it is admitted fact the worker never applied for the post and he was not selected after due test and interview. It is also admitted fact that name of Vijay Bahadur Yadav was not sponsored by the Employment Exchange. Since the worker has not worked for 240 days prior to his dis-engagement he has no right to receive any notice, compensation or salary in lieu of notice. By virtue of the present claim the worker has tried to get back door entry in the bank which can not be permitted. On the circumstances of the entire facts of the case I come to the conclusion that dis-engagement of the worker from 1-4-99 is not illegal and not unjustified. Issue is therefore answered against the workman. The workman is not entitled to any relief whatsoever.

Lucknow 13-7-2004 SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनौ के पंचाट (संदर्भ संख्या 32/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/216/2003-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/2004) of the Central Government Industrial Tribunal-cum-Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 16-07-2004.

[No. L-12012/216/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT LUCKNOW

PRESENT:

Shrikant Shukla,
Presiding Officer

I.D. No. 32/2004

Ref. No. L-12012/216/2003/IR (B-II) dt. 8-3-04

Between

Ashok Kumar Sharma S/o R.P. Sharma
Through D.N. Shukla, Office Mazdoor
Union, UP 550 Civil Lines, Unnao (U.P.)

AND

The Regional Manager, Bank of India,
Star House, Vibhuti Khand, Gomti Nagar, Lucknow

AWARD

The Government of India, Ministry of Labour vide their order No. L-12012/216/2003/IR (B-II) dated 8-3-2004 referred the following dispute for adjudication;

"Whether the action of the the management of Bank of India, Chowk Branch Lucknow In Terminating. The services of Sri Ashok Kumar Sharma w.e.f. 15-3-2003 is Legal and Justified? If not, what Relief is the Concerned workman entitled to?"

The copy of order was endorsed to Ashok Kumar Sharma S/o R.P. Sharma with the direction to file statement of claim alongwith relevant documents and list of witnesses within 15 days of receipt of order. The order was received in this court on 25-3-2004 and the court waited for claim of the workman till 29-4-04. When no statement of claim was received alongwith documents and list of witnesses the court sent notice, to the worker by registered post on 30-4-04 fixing 7-6-2004 for filing statement of claim. Registered article not received back in the court, therefore it was believed the worker is sufficiently served. The court therefore on 15-6-04 ordered the sending of notice to the opposite party the employer Regional Manager, Bank of India. The representative of the Bank of India Sri Basudeo Patro, Manager (IR) is present in the court. He has stated that Ashok Kumar Sharma is not a employee of the bank and according to the bank records he was never issued appointment letter or termination order. Ashok Kumar Sharma himself has not filed his claim that he was appointed by the bank on a particular date month and year and he also not filed the claim to the effect that he worked upto 14-3-03. Since the worker has fail to come with his claim that he was employed in the bank and was terminated by the bank, therefore the issue referred above can not be answered. No claim award passed accordingly.

Lucknow

15-7-04

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1985.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकत्ता के पंचाट (संदर्भ संख्या 33/2003)

को प्रकटित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं० एल-12011/107/2003-आई.आर.(बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1985.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2003) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 20-07-2004.

[No. L-12011/107/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 33 of 2003

Parties : Employers in relation to the management of
Punjab National Bank

AND

Their Workmen

Present :

Mr. Justice Hrishikesh Banerji,
Presiding Officer

Appearance:

On behalf of the : Mr. N. Beruli, Manager,
Management H.R.D. of the Bank.

On behalf of the Workmen : Mr. R. Chattopadhyay,
Executive Committee
Member of the Bank
Employees Federation
(West Bengal).

State : West Bengal.

Industry : Banking.

Dated : 13th July, 2004

AWARD

By Order No. L-12011/107/2003-[IR (B-II)] dated 29-09-2003 the Central Government in exercise of the powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Punjab National Bank in engaging Sh. Sk. Ebadul Islam as a Generator Operator in its branch office at B.R.B.B. Road, Kolkata w.e.f. 9-6-1982 without giving him the status and privileges of a permanent workman is legal and justified? If not, to what relief is Sh. Islam entitled to?"

2. When the case is called out today, representatives of both the parties appear and file a joint application praying for an Award in terms of the said joint application. They accordingly pray for an Award in terms of the joint application.

3. On consideration of the joint application, it find that the terms mentioned in the joint application are fair, reasonable and in the interest of the parties. I, therefore, pass an Award in terms of the joint application and dispose of the present reference. The joint application duly signed by the union and the management and also the concerned workman involved in this reference is made part of the Award as Annexure-A.

4. The reference is accordingly disposed of.

Dated, Kolkata,
The 13th July, 2004.

HRISHIKESH BANERJI, Presiding Officer

ANNEXURE-A

**BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, KOLKATA.**

Reference No. 33 of 2003

Between

The General Manager,

Punjab National Bank,

Eastern Zonal Office,

Apeejay House, 15 Park Street,

Kolkata-700016

... representing the Employer

AND

The General Secretary,

PNB Sarnik Union,

C/o. Punjab National Bank,

44 Park Street,

Kolkata-700016

... representing the Workmen

**JOINT APPLICATION ON BEHALF OF BOTH
THE PARTIES PRAYING FOR PASSING OF AN
AWARD IN TERMS OF THE UNDERSTANDING
ARRIVED AT BETWEEN THE PARTIES.**

MOST RESPECTFULLY IT IS SUBMITTED AS UNDER :

1. That the appropriate Government *vide* its Order dated 29-09-2003 has referred the following dispute between the parties for adjudication before this Hon'ble Tribunal :

SCHEDULE

"Whether the action of the Management of Punjab National Bank, New, Delhi in engaging Sh. Sri Ebadul Islam as a Generator Operator in its branch office at B.R.B.B. Road, Kolkata w.e.f. 9-6-1982 without giving him the status and privileges of a permanent workman

is legal and justified ? If not, to what relief is Sh. Islam entitled to ?"

2. That the General Secretary of Punjab National Bank Sarnik Union filed the Statement of Claim dated 22-12-2003 on behalf of the Workmen;

3. That the Bank had filed its reply on 25-05-2004 denying and/or contesting the claims of the Workmen;

4. That without prejudice to the respective submission/stand of both the parties in the present dispute, the matter was discussed between the parties and having regard to the Award dated 19-04-2001 passed by this Ld. Tribunal earlier in Reference No. 17 of 2000 in respect of Shri Nizam Ali, both the parties agreed that they should jointly move an application before this Hon'ble Tribunal praying for passing of a consent Award in the present case on the following terms:

(a) That the Bank shall regularize the services of Shri Ebadul Islam as Peon-cum-Generator Operator in the subordinate cadre of the Bank w.e.f. 28-09-2002 at the initial stage of the Pay Scale of the subordinate Cadre within 30 days from the date of receipt of the Award to be passed by this Hon'ble Tribunal;

(b) That Shri Ebadul Islam would be given back wages and other consequential benefits including Annual Graded increments from 28-09-2002; and

(c) That this shall be in full and final settlement of all the claims arising out of the instant dispute raised by the Union *vide* its Statement of Claim dated 22-12-2003 and this shall not be cited as a precedent by the parties.

5. Accordingly, this application is being moved jointly by both the parties.

PRAYER

In view of the aforesaid, both the parties respectfully pray that this Hon'ble Tribunal may graciously be pleased to answer the aforesaid reference by passing an Award in terms of the aforesaid understanding arrived at between the parties and adumbrated at Paragraph-4 hereof.

And for such act of kindness of Your Lordship, the parties, as in duty bound, shall ever pray.

Submitted before this Hon'ble Tribunal on 13th July 2004 at Kolkata.

For & on behalf of
Punjab National Bank
Sarnik Union

General Secretary

(S.K. EBADUL ISLAM)

For & on behalf of
Punjab National Bank

Authorized
Representative

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1986.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 94/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/101/91-आई. आर. (बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 94/91) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 20-07-2004.

[No. L-12012/101/91-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL CUM -
LABOUR COURT - II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE,
NEW DELHI**

PRESIDING OFFICER: R.N. RAI

I. D. No. 94/91

IN THE MATTER OF:—

P. C. CHATURVEDI:

Versus

MANAGEMENT OF CENTRAL BANK OF INDIA

AWARD

The Ministry of Labour by its letter No. L-12012/101/91/IR/(B-2) Central Government Dt. 22-07-1991 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the Management of the Central Bank of India in dismissing Shri P. C. Chaturvedi, Sub-Staff from the service of the bank is justified. If not to what relief the workman is entitled to?”

The claimant has filed statement of claim. In the statement of claim, it has been stated that the concerned workman was employed as subordinate staff cadre of the bank at Agra on 28-10-1971 and he became actively associated with the trade union movement of the employees of the bank at Agra and in the State of Uttar Pradesh, thus, incurring the displeasure of the authorities of the bank. They had made repeated attempts to victimize him for his trade union activities.

That the then Regional Manager of the Bank at Agra issued to the workman a Memo dt. 25-08-1987 that he had submitted a forged mark sheet from Agra University, declaring him as passed in the third division of the B.A. Examination in 1975 under Roll Number 2922 for getting straightway promotion to clerical cadre.

The Regional Manager of the Bank at Agra issued to the workman another Memo dt. 7-4-1988 further alleging that two advances of Rs. 500 and Rs. 1000 taken by him on 18-08-1986 and 3-09-1986 respectively for sending telegrams had not been adjusted by him. The workman submitted his reply to this Memo also, explaining his position in regard to the allegations made therein.

That after about one year from the Memo, his explanation was rejected and a charge sheet was served on him for committing gross misconduct under clause 19.5 (m) of the Bipartite Settlement dt. 17-09-1984 for producing the false document for securing promotion to clerical cadre on the basis of the allegations contained in the Memo dt. 25-8-1987.

That Shri S.K. Garg was appointed the Enquiry Officer. The Regional Manager/Disciplinary Authority produced 51 documents and filed a list of 7 witnesses proposed to be examined in support of the charges. All the documents were admitted into evidence by the E.O. as management exhibits MEX-1 to MEX-51 without calling for any prior proof and thereafter the workman was asked by the E.O. to verify the documents produced by the P.O. The workman did not admit the documents. The E.O. asked the P.O. to produce the originals of the documents but the P.O. stated that he would ask the concerned Branch to locate the originals of these two documents.

That when the enquiry was resumed on 23-2-1989, the workman being assured of a lenient view to be taken of the charges framed against him agreed to make a statement as desired by the E.O., which was recorded in English by the E.O.

“Sir, I have cooperated with the enquiry proceedings and upto this stage, the enquiry has been conducted in my presence uninterrupted. From the documents filed, you will please agree that whatever advance was given to me by the bank for sending the telegrams has been repaid by me in full and the bank has also recovered the interest at

the commercial rate for the period of delay in adjustment of the same. Hence, the management should not have proceeded departmentally against me as no loss of any kind has been caused to the bank.

The Bank has claimed with the help of MEX-29 which is a Photostate copy, I have sought my promotion to clerk in the bank fraudulently. In this connection, I would like to submit that the Bank has not promoted me to the post of clerk on the basis of MEX-29 and I am still working as Daftari. Bank has not informed me about my promotion on the basis of MEX-25.

I have admitted my mistake in writing in MEX-25 that I have passed BA Examination from Agra University in 1975 inadvertently whereas, in fact, I have passed Sahitya Ratan Examination of Prayag Vishvavidyalaya, Allahabad. I regret for this mistake on my part also. I request the E.O. to relieve me of the mental tension of day to day enquiry as I do not want to proceed with the enquiry and the learned E.O. may take lenient view in respect of my mistakes and any punishment short of discharge or dismissal by the Disciplinary Authority will be acceptable to me".

Thus, it is clear from the statement of claim that the workman admitted during the enquiry that he had submitted letter regarding passing BA from Agra University by mistake and he has accepted his mistake and he has also admitted that he has received Rs. 1500/- under the head telegrams. He has further given the names of Shri Ramesh Sharma, Shri Gobind Ram, Shri Budha Prasad, Shri Ayodhya Prasad, Shri Triloki Nath, Shri R.R. Nayyar, Shri Shankar Lal, Shri Komal Singh and Shri Ashok Verma and has stated that these persons had also produced false certificate for promotion but they admitted their guilt in the enquiry and a lenient view was taken and they were reinstated with stoppage of increments. The same view should be taken in respect of him also.

The management has filed written statement. In the written statement, it has been stated that the charge sheeted employee had already admitted the charges levelled against him. There was no need of further enquiry when admission was made. The charge sheeted workman has committed a gross-misconduct when he informed the bank that he had passed BA from Agra University and he has submitted a false mark sheet whereas he has admitted that he had not passed BA from Agra University but he had passed from Sahitya Ratan Examination from Prayag Vishvavidyalaya and he has admitted that he has received Rs. 1500/- under the head of telegrams and he reimbursed the same alongwith interest as such his gross misconduct is proved.

The workman has filed rejoinder, In his rejoinder, he has reiterated the averments of his statement of claim and he has added that he was dictated by the E.O. and his dictation was reduced to writing during the enquiry. He was assured that a lenient view will be taken against him

but his services were terminated whereas on the same allegations, several persons named above have been reinstated in service.

It is pertinent to point out here that both the parties have led evidence. As such, the evidence to prove the enquiry or quantum of punishment is not to be adduced by either of the parties. In case, evidence has been adduced by the management and the workman in the Tribunal also to prove or disprove the enquiry there is no question of taking evidence again.

Heard arguments from both the parties and perused the papers on the record. It was submitted from the side of the workman that the workman during the enquiry proceedings admitted his mistake and he had deposited the money which has been entrusted to him alongwith interest and several employees producing false certificates for promotion have been reinstated. As such, a lenient view has been taken by the management. In case the same view is not taken, there would be a discrimination with this workman. This workman had admitted during the course of enquiry, the charges regarding production of false certificate and not adjusting the advances. He has refunded the advances amount with interest and it cannot be deemed that there was any misappropriation but the amount was paid by the management and he was asked to keep it with him for certain telegrams so it cannot be said that he misappropriated the amount. He had admitted both the charges. As such, the findings of the enquiry officer is correct and fair. It was submitted by the management that he had produced false certificate and in this way, he has committed a grave misconduct so lenient view cannot be taken against him but the management/respondent have not replied to the paragraphs in which names of several persons who have committed the same misconduct but they have been let off with minor punishment of stoppage of increment. As such, in the interest of justice, the same attitude should have been adopted by the management and he should also have been reinstated with stoppage of increments otherwise it would be victimization pure and simple. So in view of the cases cited in the statement of claim, I am of the considered view that the bank should have taken lenient view in respect of this workman also and his services should not have been terminated so the termination of his services is not justified in view of the different action taken against the same charges. His admission shows that it was under the assurance that a lenient view would be taken against him. However the enquiry is not liable to be set aside. The punishment is harsh and not commensurate with his mistake.

The reference is replied thus :—

The action of the Management of the Central Bank of India in dismissing Shri P. C. Chaturvedi, Sub-Staff from the service of the bank on 30-09-1989 is not absolutely

justified. The workman applicant deserves to be reinstated from the date of dismissal of his service i.e. 30-09-1989 with stoppage of 4 increments with cumulative effect and payment of 50% back wages from the date of his dismissal i.e. 30-09-1989.

The award is given accordingly.

Dt. 08-07-2004

R. N. RAI, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1987.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 130/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/186/94-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 130/94) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 20-07-2004.

[No. L-12012/186/94-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT - II, RAJENDRA BHAWAN,
GROUND FLOOR, RAJENDRA PLACE,
NEW DELHI**

PRESIDING OFFICER: R.N. RAI I. D. NO. 130/94

IN THE MATTER OF :-

**PUNJAB NATIONAL BANK STAFF ASSOCIATION
(U.P.)**

VERSUS

**MANAGEMENT OF PUNJAB NATIONAL BANK,
MEERUT**

AWARD

The Ministry of Labour by its letter No. L-12012/186/94/IR/(B-2) Central Government Dt. 23-09-1994 has referred the following point for adjudication.

The point runs as hereunder:-

“Whether the action of the Management of the P N B, Meerut in not paying full pay and allowances to Shri Subhash Kaushik, Head Cashier on completion of one year of suspension i.e. w.e.f. 17-03-1989 is justified. If not to what relief the workman is entitled to?”

The claimant has filed statement of claim. In the statement of claim, it has been stated that the concerned workman was deployed at the relevant time in the opposite party bank, as cashier incharge, head cashier category at Branch Office Muradnagar Distt. Ghaziabad where he was placed under suspension on 17-03-1988 vide order dt. 17-03-1988 issued by Branch Manager for alleged misconduct and pending departmental action.

That the concerned workman and the association at several occasions made representations as on 29-03-1989, 21-4-1989, 10-05-1993 and the matter was pursued in different forums of negotiations with concerned authorities, including the Industrial Relation Machinery. The Management of the Opposite Party bank refused to entertain the claim of the workman and its Association. The matter was not settled so it has been referred to this Tribunal for adjudication.

As per provisions of para 557 of Sastry award, subsistence allowance has been claimed. It is needless to refer para 557 of the Sastry Award. It would be referred at the relevant time.

It has been further stated that in case the authority concerned which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution, it shall be opened to the management to proceed against the employee under the Provisions in clauses 19.11 and 19.12 infra relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to all other privileges for such period. In the event of the management deciding, after enquiry not to continue him in service, he shall be liable only for termination with three months pay and allowances in lieu of notice as provided in clause 19.3 supra. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial after which the provisions mentioned in clause 19.3 above shall apply but if on the conclusion of the enquiry, it is decided to take no action against him, he shall be deemed to have been on duty and shall be entitled to full wages and allowances and to all other privileges for

the period of suspension and if some punishment other than dismissal is inflicted, the whole or a part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to corresponding portion of the wages, allowances, etc.

That the management suspended the concerned workman on 17-03-1988. The order of suspension speaks about the alleged misconduct under para 19.5(c) of the Bipartite Settlement, 1966 and the order is in the form of charge sheet-cum-suspension order. Thus, it is indicated that the management intends to proceed departmentally relating to enquiry. As such, 1/3rd of pay and allowances are to be paid as prescribed in amended provision of para 557 of Sastry Award as quoted herein above for facility of the reference and award.

That the subsistence allowance factually paid by the opposite party bank as shown in the certificate attached with this claim is marked as Annexure 'II', while it should have been as per provisions of the quoted provisions of the settlement.

That the management has violated the settlement and the workman is entitled to full pay.

That the management filed an FIR on 14-3-1988 with the police station Muradnagar against the concerned workman and the concerned Police authorities filed F.R. on 27-03-1988. Thus, after filing of the Final Report, no pendency of Bank's criminal action against the concerned workman to get him prosecuted is pending. The Opposite Party thereafter can start departmental proceedings but they did not hold any enquiry instead they resorted to unfair labour practices by committing violation of industry wise settlement, 1966 as amended, subsistence allowance by paying less amount as shown in the statement Annexure-II. The amount due to the workman from the bank is given in the Annexure-VIII of his statement of claim.

It is prayed that the action of the management of the opposite party bank be declared wrongful and established case of unfair labour practice and the bank be directed to pay to the workman as claimed in Annexure-VIII with accruing benefits of the delayed interest.

The management has filed written statement. It has been stated in the written statement that the dispute has not been properly espoused as envisaged under the provisions of ID Act, 1947 and accordingly no valid dispute can be said to have arisen in the eyes of the law. It is thus submitted that the Hon'ble Authority has no jurisdiction to deal with the matter.

That the service conditions of the workmen staff in the bank's are governed by Sastry Award, as amended by Desai Award and the Bipartite Settlements from time to time.

The workman concerned was suspended on 17-3-1988 for having misbehaved violently with Shri R. K. Goel, A.M. on 14-3-1988.

The workman was served with chargesheet and bank filed an FIR in this matter but he filed a suit No. 287/88 before the Ghaziabad Court against the bank and another suit against Shri R. K. Goel, A.M. In civil suit against the bank, he questioned his suspension and prayed for reinstatement on 28-07-1990. The Civil Court dismissed the case on the ground that it lacked jurisdiction in such departmental matters. On receipt of this decision, the case of Shri Kaushik was reviewed by the competent authority and the suspension orders were revoked. Shri Kaushik was reinstated in bank's services w.e.f. 15-10-1990.

Further, disciplinary proceedings were, therefore, kept in abeyance in terms of para 19.4 of the First Bipartite Settlement dt. 19-10-1966.

That the workman remained under suspension from 17-03-1988 to 14-10-1990. During the said period, the workman was entitled to the subsistence allowance at the following rates in terms of para 557 of the Sastry Award and para 17.14 of the Desai Award circulated vide Personnel Division Circular No. 805 dt. 5-11-1984.

Accordingly, the workman was entitled for subsistence allowance at the rate of 1/3rd of the pay and allowances for the first six months and one-half of the pay and allowances for the succeeding months and till the enquiry is over, where the investigation is done by the Opposite Agency, and the Opposite Party has come to the conclusion not to prosecute the employee full pay and allowances will be payable after 6 months from the date of receipt of the report of such agencies or one year after suspension whichever is later.

Accordingly the workman was entitled for subsistence allowance at the rate of 1/3rd of the pay and allowances for the first six months as the report of the investigating agency had not been received by the bank nor the civil proceeding pending before the court at Ghaziabad were concluded till the reinstatement of the workman. Moreover, the workman admitted his guilt in terms of letter dt. Nil on the basis of which he was awarded the penalty of warning in terms of para 19.6(b) of 1st Bipartite Settlement dt. 19-10-1966 for the gross misconduct in terms of para 19.5(c) of the said settlement. However, he was paid an excess amount of subsistence allowance inadvertently during the 4th, 5th and 6th month of suspension.

That the excess payment of subsistence allowance so paid needs to be recovered from the workman. All the averments of the statement of claim have been denied and it has been asserted that Rs. 1107.13 paid inadvertently as he was eligible for 1/3rd of pay and allowances whereas he was paid 1/2 of pay and allowances is to be recovered.

It has been further stated that the workman remained under suspension from 17-03-1988 to 14-10-1990. During the said period, the workman was entitled to the subsistence allowance at the following rates in terms of para 557 of the Sastry Award and para 17.14 of the Desai Award circulated vide personnel division Circular No. 805 dt. 5-11-1984.

All the paragraphs of the written statement have been denied. The claimant has filed rejoinder and in his rejoinder, he has denied all the paragraphs of the written statement.

In the rejoinder, it has been stated that there was no stay from the Civil Court and the Police has filed Final Report and no enquiry has been initiated and he was reinstated with a warning. In such circumstances, he is entitled to get pay according to para 557 of the Sastry Award and Desai Award vide Circular No. 805 dt. 5-11-1984.

Heard arguments from both the sides and perused the papers on the record. It was submitted by the workman that no enquiry has been initiated against him and FIR was lodged with the police but the police has sent Final Report on 23-9-1988, as such no further proceeding is pending under any outside agency. The bank has not instituted any enquiry. Only warning has been given but in the warning, it has not been mentioned that he will not be paid full wages in view of para 557 of the Sastry award and the circular letter dt. 5-11-1984. As such, he is entitled to get subsistence allowance vide the Circular No. 805 dt. 5-11-1984.

It was submitted from the side of the management that the applicant workman has filed a civil suit and the case prolonged so the enquiry was not instituted and when the civil proceedings came to an end, he was reinstated with a warning. The management can take action during the pendency of the suit so the management was not prevented from instituting an enquiry but no enquiry has been instituted in this case and the police has sent Final Report so no proceedings by way of investigation or trial or enquiry was pending. In view of these facts, the workman applicant is entitled to get payment during his suspension period as provided in circular letter mentioned above. It is provided in para 3 (b) that full pay and allowances will be payable after six months from the date of the report of such agency or one year from the date of the completion of enquiry. In the instant case, there is no enquiry hence the workman applicant is entitled to get full pay and allowances after six months from the date of Final Report. The Final Report was sent on 23-9-1988. As such he is entitled to get full pay and allowances from 23-3-1989 whereas he has not been paid full pay and allowances from that date.

In view of the foregoing discussions, it becomes quite clear that the management has not followed the procedure as provided in respect of the subsistence

allowance. The workman deserves to get full pay and wages w.e.f. 23-3-1989 i.e. after six months from the date of F.R. i.e. 23-9-1988.

The reference is replied thus :—

The action of the Management of the PNB, Meerut in not paying full pay and allowances to Shri Subhash Kaushik, Head Cashier on completion of one year of suspension i.e. w.e.f. 17-3-1989 is not justified. The workman is entitled to get full pay and allowances from 23-3-1989 six months after the date of Final Report i.e. 23-9-1988 and not from 17-3-1989.

The award is given accordingly.

Dt. 8-7-2004

R. N. RAI, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1988.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबंध में निवृत्तियों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 30/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-7-2004 को प्राप्त हुआ था।

[सं० एल-12012/4/2001-आई. आर. (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th July, 2004.

S.O. 1988.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.30/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 16-7-2004.

[No. L-12012/4/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-
TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-30/2001.

Reference No. L-12012/4/2001-IR(B-II)

Mahaveer Prasad Maharia,
S/o Juglal, R/o Vill. Post—Sahikla
Chirawa, Jhunjhunu (Raj.)

.....Applicant.

Versus

1. The Manager,
Bank of Baroda,
Chirawa Branch
Distt. Jhunjhunu.
2. The Deputy General Manager,
Bank of Baroda, Anand Bhavan,
4th floor, Sansar Chandra Road,
Jaipur (Raj.)Non-applicants

PRESENT:

Presiding Officer : SH. R. C. SHARMA

For the applicant : Sh. Suresh Kashyap

For the non-applicant : Sh Shyam Vyas

Date of award : 15-6-2004

AWARD

The Central Government under clause D to sub-section 1 to Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

“Whether the action of the management of Bank of Baroda in terminating the services of Shri Mahaveer Prasad Maharia S/o Shri Juglal w.e.f. 14-4-1995 was justified? If not, what relief the workman is entitled and from which date?”

Following the reference, the workman in his claim statement has averred that he was appointed on 2-5-1994 as 4th class employee on its permanent post, who had continuously worked upto 13-4-1995. But on 14-4-1995 he was declined to join the duty. He has stated that he worked for 345 days whose service was terminated without giving him one month's notice or salary in lieu of notice and retrenchment compensation. He has alleged that the management has violated the provisions under Sections 25-F, 25-G of the Act. He has urged that his termination order dated 14-4-1995 be declared illegal and unjustified and he may be reinstated into service with full back-wages.

In the reply, the non-applicants have resisted the claim of the workman and have pleaded that he was never appointed to the post of 4th class, that from 2-5-1994 to 5-1-1995 for a period of 64 days in total he had worked on the casual wages basis to discharge the additional work of the management and the payment of wages was made to him through the vouchers. Further, they have categorically stated that he worked only for 59 days in the year 1994 and

for 5 days in the year 1995 under the employment of the management.

On pleadings, the following points for determination were framed :—

- (1) आया प्रार्थी ने दिनांक 2-5-1994 से 13-4-1995 तक विपक्षी संस्थान में चतुर्थ श्रेणी कर्मचारी के स्थाई पद पर निरन्तर कार्य किया ?
- (2) आया प्रार्थी की सेवा समाप्ति औद्योगिक विवाद अधिनियम, 1947 की धारा 25-एफ, जी, एवं औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम, 77, 78 का उल्लंघन कर की गई ?
- (3) प्रार्थी किस सहायता को प्राप्त करने का अधिकारी है ?

In the evidence, the workman has examined himself and on behalf of the non-applicants Shri G. R. Digerwal, the Senior Manager has been examined.

Both the parties have also led documentary evidence in support of their cases respectively.

I have heard both the parties and have perused the record.

The point-wise discussion follows as under :—

POINT NO. 1 :—The Ld. representative for the workman contends that the workman was appointed on 2-5-1994, who continuously worked upto 13-4-1995 and on 14-4-1995 his service was terminated. His further submission is that the payment of wages was made to him only for the period from 10-5-1994 to 4-4-1995 through 22 vouchers. His next contention is that the non-applicants were directed to file the remaining 9 payment vouchers before the court, which they have not filed. The next contention to prove this point is that the workman was paid the bonus for the full calendar year and as per the requirements of the Payment of Bonus Act, on completion of one year the bonus becomes admissible to the workman. The Ld. representative added that the amount of Rs. 503 was paid to the workman as bonus which shows that he had completed one year of employment with the management. Thus the Ld. representative submits that in violation of Section 25-F of the Act, the service of the workman was terminated.

Per contra, the Ld. representative on behalf of the non-applicants contends that the workman had worked only for 64 days and the workman has also admitted that he had worked for 138 days. The Ld. Representative countering the contention on behalf of the the workman urges that 22 vouchers in original have been placed on record on behalf of the non-applicants which were in their possession and through which the payment of wages was made to the workman. The Ld. representative has vehemently contended that

the workman had not completed 240 days with the management and, therefore, the said termination does not amount to retrenchment.

I have bestowed by thoughtful consideration to the rival contentions.

On behalf of the claimant it has been asserted that from 2-5-1994 to 13-4-1995 the workman had worked under the employment of the management, who has thus completed 240 days in the preceding calendar year to his termination. It has been alleged that his service was terminated w.e.f. 14-4-1995. As against it, the non-applicants have come with a positive stand that the workman had worked only for 64 days in total, out of them he worked for 59 days in the year 1994 and for 5 days only in the year 1995. Thus their contention is that the workman has not completed 240 days in the preceding calendar year.

The workman petitioned on 27-9-2002 before the court that he was paid the wages for the work of 138 days only by the management and, therefore, all the payment vouchers may be called for from the non-applicants. Thus the plea incorporated in his application dated 27-7-2002 clearly denotes that the payment of wages was made to him only for the work of 138 days. In his cross-examination although he has deposed that he had worked for 240 days, yet he has admitted that the payment of wages was made to him for the working of 138 days only. He could not be able to render any satisfactory explanation to this fact that if he had worked over 240 days then why he was paid only for 138 days. In his cross-examination he has further admitted that the facts with regard to the receipt of the payment of wages detailed by him in his application Ex. W-1 are correct. Thus, it is manifestly clear that as per the version of the claimant he was paid the wages for performing his work for 138 days only. Had he worked for 240 days or more with the management, the payment of wages for the period could have been made to him. As such, his assertion that he had worked for more than 240 days with the management remains uncorroborated from the testimony and it is established on the basis of his own evidence documentary as well as oral evidence—that he had not completed 240 days of employment with the management. To substantiate the claim of the workman, it has also been contended that he had received the bonus from the management. In his cross-examination, the workman has deposed that a sum of Rs. 503 was paid to him as bonus, but he could not be able to clarify as to for how many days of performance, this amount was paid to him. Thus the oral evidence of the workman on the point appears to be indefinite. The Ld. representative for the workman has contended that on

completion of one year under the employment of the management the workman becomes entitled for getting the bonus. On behalf of the non-applicants this contention has been sought to be controverted by arguing that even the bonus is admissible on completion of 30 days work in the year. The Ld. representative for the workman could not be able to refer to any provision of the Act in support of this contention. On a perusal of Section 9 of the Payment of Bonus Act, 1965 it is disclosed that every employee becomes entitled for payment of bonus provided he has worked in the establishment for not less than 30 working days in the year. As such, the contention on the point does not derive any help from the provisions of the Payment of Bonus Act, and simply on this count that a sum of Rs. 503 was paid to the workman as bonus, it cannot be presumed that he had worked in the full calendar year with the management. Hence on a careful examination of the evidence available on the record, I find that the workman could not be successful to establish that he had worked for 240 days in the calendar year with the management preceding to his termination. As such, the submission advanced on behalf of the workman is negative and this point is decided against him and in favour of the management.

POINT No. 2 :—The Ld. representative for the workman has contended that as per Rule 77 no seniority list of the employees have been prepared by the management, which is in violation of Section 25-G of the Act. On behalf of the non-applicants this contention has been refuted.

In the claim statement the workman has asserted that at the time of his termination, his juniors were retained by the management. But he has not even disclosed their names in his claim petition. Moreover, in his affidavit he has also not stated this fact and has not thus led any evidence on the point. Apparently, the workman has also failed to prove this fact of retention of the junior employees to him by the management at the time of his termination. Thus this point, too, is decided against the workman and in favour of the non-applicants.

POINT NO. 3 :—Relief—For the foregoing reasons, the workman has failed to establish his claim, which deserves to be disallowed.

Accordingly, the reference is answered in the negative against the workman and in favour of the management that the termination of the workman dated 14-4-1995 is justified and that he is not entitled to get any relief. An award is passed accordingly in these terms.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1989.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 53/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/74/2001-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1989.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 16-07-2004.

[No. L-12012/74/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-53/2001

Reference No. L-12012/74/2001-IR (B. II)

Shri Kailash Prasad Khandelwal,
S/o Shri Narayan Lal Khandelwal,
R/o Behind Womens College,
Dausa (Raj.)- 303 303

.....Applicant.

Versus

The Branch Manager,
UCO Bank,
Branch Dausa,
Dausa (Raj.)-303 303

.....Non-applicant

Present:

Presiding Officer	Sh. R.C. Sharma
For the applicant	: Sh. Suresh Kashyap
For the non-applicant	: Sh. Surendra Singh
Date of award	: 8-07-2004

AWARD

The Central Government in exercise of the powers conferred under clause D of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to

as the Act) has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action to the management of UCO Bank in terminating the services of Shri Kailash Prasad Khandelwal, Laghu Bachat Yojana Agent is legal and justified? If not, what relief is the disputant concerned entitled to?"

Pursuant to the reference the workman in his claim statement has pleaded that he was engaged as collection representative under the small scale scheme (Laghu Bachat Yojna) by the non-applicant bank (for short the bank) on 23-5-1987 on payment of commission on collection basis which was earned by him in between 4000/- to 5000/- P.M. He has averred that as the part of his duties he had to give incentives to the customer to open the new accounts by visiting their houses and work places, to collect the funds from them and deposit it in their accounts in the bank and thereafter to prepare the record of the collected funds by working in the bank from 10 a.m. to 3 p.m. According to his averments his duties were similar to that of a regular employee of the bank. He has pointed out that from 23-5-1987 to 17-1-1997 he continuously performed his duties, but on 18-1-1997 he was denied to open the new accounts. He has stated himself to be a workman as defined under Section 2(s) of the Act, who was terminated in violation of provision under Section 25 F of the Act. He has prayed that his termination order dated 18-1-1997 may be declared as improper and illegal and he may be reinstated with back wages.

Resisting the claim of the workman, the non-applicant in his written statement has pleaded that the workman had applied to the bank vide his application Ex. M1 to work as commission agent under the small scale scheme, who was employed as such vide order of the bank Ex. M-2 after holding his interview and it was made clear to him that he will not be an employee of the bank in any sense and the relationship between him and the bank will be that of an agent and principal. It is further averred that after acknowledging the conditions mentioned in Ex. M-2, the workman accorded his consent vide his acceptance letter Ex.-M4. Thus, he acted as a commission agent and acquired the commission as per the appointment letter Ex. M-3. But on 18-1-1997 he was directed not to open the new accounts under the scheme, however, his agency was not terminated and he was permitted to collect the amount pertaining to the old accounts. According to the non applicant no salary was paid by the bank to the workman who was not working as a regular employee. The non applicant has also disputed that the claimant is not covered by the definition of the workman and the provisions of the Act are not applicable to him.

On pleadings the following points for determination were framed :—

1. Whether that applicant-workman was employment by the non-applicant bank on 23-5-1987 as Collection

Representative under the small savings scheme, who continuously worked up to 17-1-1997?

2. Whether the applicant was paid the salary in the form of the commission per month in between 4000/- to 5000/- p.m. by the non-applicant in the years 1993-94 and 1994-95?

3. Whether the work performed by the applicant was perennial to that of the regular employee?

4. Whether the non-appliant has violated the provisions under Section 25F and 25-G of the ID Act and termination of the services of the workman w.e.f. 18-1-1997 is unjustified?

5. Whether the applicant is entitled to be reinstated in the service with full back-wages?

6. Relief.

In the evidence the workman has examined himself and in the defence the counter affidavit of Shri Laxmi Chand Meena, Manager was submitted, who was cross-examined on behalf of the workman.

On behalf of the bank 3 documents in support of its case have been brought on the record, whereas the workman has chosen not to file any document.

I have heard both the parties and have gone through the record.

The point-wise discussion follows as under:—

POINT NO.1,2.& 3:—Since the facts relating to these points are identical, these are discussed together.

These facts are undisputed that the workman was engaged as a commission agent on 23-5-1987 by the bank under Laghu Bachat Yojna, who was paid the commission on the collection basis and who worked up to 17-1-1997 with the bank. It is further an undisputed fact that on 18-1-1997 he was forbidden to open the new accounts.

The Id. representative on behalf of the workman contends that the claimaints is a workman within the purview of Section 2 (s) of the Act, who was allotted the work of opening of new accounts by the bank and was paid the wages in the form of the commission which ranks from 4000/- to 5000/- per month. In support of his contention the Ld. representative has placed his reliance on (2001) 3SC Cases 36.

Arguing contra, the Ld. representative for the non-applicant submits that the duty of the workman was to enhance the collections of Laghu Bachat deposits for which he was paid the commission and therefore, he was not a workman and no relationship of the employer and employee between them ever existed. The Ld. representative has further stressed upon that the workman had applied for the said job with the bank and by his acceptance letter Ex. M-3 he had accepted all the conditions laid down in the appointment letter Ex. M-2 In view of this appointment

letter, the contention of the Ld. representative is that he is an agent to the bank and there is a relationship of principal and agent between the two. He has also contended that no wages were fixed, for which he cannot now claim for and he was only denied to open the new accounts, but was permitted to continue the collection of the funds of old accounts.

I have bestowed my thoughtful consideration to the rival contentions and have carefully gone through the judicial pronouncement cited before me.

The first and foremost question which emerges for determination is as to whether the claimant is a workman as defined under Section 2 (s) of the Act.

Section 2 (s) of the Act lays down as under :—

“Workman’ means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, include any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute...”

The evidence adduced on behalf of the workman on the point is that his duties were to give incentives to the customer to open the new accounts and enhance the collection of Laghu Bachat Deposits by visiting their houses and work place and to collect the funds and deposit them in the bank. He has stated in his affidavit that as part of his duties he had to prepare the record of the funds by working in the bank from 10 a.m. to 3 p.m. and he performed all the duties of the same kind to that of a regular employee of the bank. His evidence is further supported by the letter of appointment of Laghu Bachat Yojana agent Ex. M-2 issued by the bank itself, which describes his duties to endeavor to promote and enhance the collections of the scheme and prescribes even his conduct in his dealings with the bank customers while discharging his duties. It further provides that in conformity with the bank procedure he will render the satisfactory account of the deposits collected under the scheme and shall keep the record of such collections in the manner and in such forms as is prescribed by the bank. He was also made responsible to the bank for the safe custody of all monies collected by him and to render proper and satisfactory accounts of all the monies collected by him. He was also required to furnish and initial cash security of Rs. 500/- and was paid commission @ 3% on the total deposits collected by him every month.

Thus it thaws from the evidence, oral and documentary, adduced on the record that the claimant had to work from 10 a.m. to 3 p.m. in the bank and besides these

working hours he was devoting his time for enhancing the collection and collecting the deposits from the customers under the scheme. He was assigned all these duties on behalf of the bank and for promoting the business of the bank. Thus, he was clearly working under the direct control and supervision of the bank for its benefit on payment of the fixed commission accruing on the collected funds and was performing the duties of the similar kind to that of a regular employee in the bank. Therefore, the position/status of the workman which emerges out from the aforesaid facts is equivalent that of a regular employee of the bank.

On account of the aforesaid grounds the evidently relationship which existed between them is that of an employer and an employee. Thus, even on the basis of the duties assigned to the workman vide appointment letter Ex. M-2, the relationship between the two appears to be that of an employer and an employee contrary to the relationship of the principal and agent as described in Ex. M-2. As such, the claimant has succeeded in establishing the fact that he is a workman as defined under Section 2 (s) of the Act.

The working tenure of the workman from 23-5-1987 to 17-1-1997 has not been disputed on behalf of the bank. It is, thus, clear that in the previous calendar year to his termination he has worked over 240 days under the employment of the bank.

It was then contended on behalf of the bank that the workman was not employed on the wage-basis, but was paid commission on the funds collected by him as per the terms and conditions laid down in Ex. M-2. On behalf of the workman this fact has not been controverted, but the workman has only asserted that he was earning in between Rs. 4000 to 5000 per month as his commission during the period of his employment. He has specifically incorporated this fact in his claim statement and thereafter at para 2 of the affidavit, who could not be shaken on the point by the bank in his cross-examination. Therefore, his earning in the form of his commission on the basis of the collected funds can safely be calculated at the tune of Rs. 4000 per month.

Now I advert to the question as to whether the employment of the workman was terminated? The Ld. representative on behalf of the bank has much emphasized that the workman was only prohibited to open the new accounts w.e.f. 18-1-1997, but he was permitted to collect the funds of the old accounts. Therefore, his contention is that he was not disengaged from the employment and the workman thus continues to work under the employment of the bank and the aforesaid refusal for opening the new accounts cannot be termed as his termination.

The Ld. representative for the workman has sought to controvert this submission.

Admittedly, the workman whose duties were assigned vide appointment letter Ex. M-2, was forbidden

to open the new accounts of the customers, for which he was engaged by the bank, and it leads to infer that he was forbidden to perform the major part of his duties and his exclusion from opening the new accounts and promoting and enhancing the collection in the scheme tantamounts to the termination of his employment since the date he was declined to act as such. Thus refusal of the bank to the workman for opening the new accounts w.e.f. 18-1-1997 can safely be treated as his termination from employment from such date. Thus, I find no force in the contention canvassed on behalf of the bank, which is not sustainable and is repelled.

The Ld. representative for the workman in support of his contention has invited my attention towards (2001) 3 SCC 36 wherein the Hon'ble Apex Court on the similar facts has affirmed the findings of the Tribunal that the deposit collectors are workmen within the purview of Section 2 (s) of the Act and that the commission received by the deposit collectors is nothing else but wage, which is dependant on the productivity. It has been further held by the Hon'ble are Court that the commission is paid for promoting the business of the bank. The facts of the referred to case squarely applicable to the case at hand and the judgement supra fortifies the submission advances on behalf of the workman.

For the foregoing reasons and in the aforesaid manner all the three points are decided in favour of the workman and against the bank.

POINT NO. 4. :- On the analysis of the evidence adduced by both the parties under the aforesaid points, it has been established that the workman has worked over 240 days under employment of the bank. It is further revealed that his termination was made without following the mandates of Section 25F of the Act inasmuch as no notice or wages in lieu of notice and compensation were paid to him as required under Section 25F of the Act. Therefore, it is proved that the bank has acted in violation of the provision under Section 25F of the Act and the said termination amounts to retrenchment.

So far as the violation of the provision under Section 25G of the Act is concerned, neither the workman has pleaded the relevant facts in his claim statement nor he has adduced the evidence in this regard. Hence, it could not be proved that at the time of his termination his juniors were retained by the bank. The point is, therefore, disposed of with the aforesaid observations.

POINT NO. 5:- On a careful examination of the facts and circumstances available on the record, the workman has been able to establish his claim, which deserves to be allowed.

In the result, the reference is answered affirmatively in favour of the claimant and against the non applicant that the termination of the service of the workman (w.e.f.

18-1-1997) is illegal and unjustified. His claim is allowed and he is reinstated in service with 50% back wages. The Award is passed accordingly.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1990.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 3/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2004 को प्राप्त हुआ था।

[सं० एल-12012/214/2001-आई. आर. (बी-11)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 16-07-2004.

[No. L-12012/214/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-3/2002

Reference No. L-12012/214/2001-IR (B-II)

Shri Dharampal Singh Punia,
S/o Shri Onkar Singh,
Vill. & Post—Hamirvas,
Tehsil—Rajgarh,
Churu Distt. (Rajasthan)- 335001

.....Applicant

Versus

1. The Zonal Manager,
Punjab National Bank,
Neluru Place, Tonk Road,
Jaipur.
2. The Regional Manager,
Punjab National Bank,
Regional Office, Meera Chowk,
Sri Ganganagar-335001.

3. The Branch Manger,
Punjab National Bank,
Swami Dayanand Marg,
Sri Ganganagar.

.....Non-applicants

Present:

Presiding Officer:	Sh. R.C. Shrama
For the applicant :	Sh. R.C. Jain
For the non-applicants :	Sh. M.P. Soni
Date of Award :	28-06-2004

AWARD

1. The Central Government in exercise of the powers conferred under clause D of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (herein after referred to as the Act) has referred the following industrial dispute for adjudication to this Tribunal which runs as under:—

“Whether the action of the management of Punjab National Bank in dismissing the services of Shri Dharampal Singh Punia s/o Shri Onkar Singh w.e.f. 25-6-1997 was justified? If not, what relief the workman is entitled and from what date?”

2. The facts giving rise to this reference, in short, are that the workman was employed with the non-applicant bank as peon-cum-guard and was posted at its Sriganganagar branch where the Branch Manger started to victimize him by compelling him work by late in night and when he was transferred/posted at Lalgah extension counter under the control of Sriganganagar branch, the Branch Manager conversed the officer in-charge of the extension counter to instigate the customers and staffers to file the fake complaints against him. In furtherance thereof, a chargesheet dated 8-1-96 levelling the charges of misconduct was served upon him. After holding the enquiry, the charges were founds proved against the workman, whose service was terminated w.e.f. 25-6-97.

3. In response, the non-applicants in their common written statement have denied the facts as alleged by the workman in his statement of claim and have stated that the charges were rightly found proved against him and his service was terminated as per the clauses of the bipartite settlement on account of the major and minor misconducts committed by him.

4. Vide order dated 16-4-2003 of this Court, the impugned domestic enquiry was found to be conducted in violation of the principles of natural justice and was declared to be bad.

5. In order to prove the charges levelled against the workman, the management was permitted to lead the evidence, which has examined MW-1, Sh. Bhawar Singh; MW-2, Sh. Shyam Sunder; MW-3, Sh. Raj Kumar Kamra & MW-4, Sh. Umesh Takyar, in defence, the workman has appeared himself in the witness box.

6. I have heard both the parties and have gone through the record.

7. The Id. representative (officer in-charge) on behalf of the non-applicants contends that the workman in his evidence has admitted his presence on the day of occurrence and the management witness Sh. Bhawar Singh (MW-1), to whom the workman had misbehaved has stated the alleged offence in his evidence. His further contention is that the other management witnesses Sh. Shyam Sunder (MW-2), Sh. Raj Kumar Kamra (MW-3), and Sh. Umesh Takyar (MW-4) have corroborated the evidence of Bhawar Singh and have proved the conduct of the delinquent. His next contention is that no reliance can be placed upon the affidavit of the workman and all the three charges levelled against him are established on the basis of the evidence tendered by the management. The Id. representative has, too, submitted that the punishment awarded to the workman is proportionate looking to the gravity of the misconduct, specially in the circumstances that the workman-delinquent himself is an ex-army personnel.

8. Per contra, the Id. representative for the workman contends in respect of charges No. 2 & 3 that they could not be proved in the absence of the evidence as it has not been shown as to which orders of the superior officers were defied by the workman. His next contention is that the statements of the management witnesses are improved versions and there are contradictions in their statements. The Id. representative has also taken a stand that the bank has not adduced any independent witness in support of the alleged misconduct and that the alleged occurrence had taken place outside the bank premises. The Id. representative has further submitted that the management has imposed the disproportionate punishment on the delinquent.

9. I have bestowed my thoughtful consideration to the rival contentions and have carefully perused the judicial pronouncements referred to by both the parties.

10. The chargesheet dated 8-1-96 served upon the workman-delinquent reads that on 10-10-95 at about 1.5 pm when salesman hawaladar Bhawar Singh of 19 Rajput Canteen came to the extension counter, Lalgah Cantt. to deposit the official cash, the delinquent misbehaved and abused him and when aggrieved by his riotous behaviour Sh. Shyam Sunder, clerk/cashier tried to go outside the bank premises then the delinquent caught hold Sh. Raj Kumar Kamra, Chief Cashier (MW-3) by his hand, who was sitting with the officer in-charge and pulled him by stating "**Kamra what you are doing here, you should also go outside,**" when Sh. Kamra resisted it, the delinquent raised a hue and cry and reiterated that he would pull him by holding his hand and abused him and threatened him to see the dire consequences. He also uttered that he is selling

liquor in connivance with the canteen employees and that he would kidnap his children.

11. On these facts three charges, as below, were levelled against the workman :—

- (i) that he misbehaved with the customers and the employees of the extension counter on 10-10-95.
- (ii) that he defied the lawful orders of his superiors and has shown scant regard towards them, and
- (iii) that his aforesaid acts were prejudicial to the interest of the bank.

12. It has been shown on behalf of the bank that these major and minor misconducts committed by the workman fall under the clauses 19.5 (c, q, e, j) and 19.7 (e, j) of the bipartite settlement. Relevant clauses are reproduced as below for the sake of convenience :—

"19.5 By the expression "gross misconduct" shall be meant any of the following acts and omissions on the part of an employee :

- (c) **drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank**
- (e) **willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior.**
- (j) **doing act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss.**

19.5 By the expression "minor misconduct" shall be meant any of the following acts and omissions on the part of an employee :

- (e) **Committing nuisance of the premises of the bank**
- (j) **failing to show proper consideration, courtesy or attention towards officers, customers or other employees of the bank, unseemly or unsatisfactory behaviour while on duty."**

13. The Id. representative for the non-applicants while emphasizing on the appreciation of the evidence in disciplinary proceedings has drawn my attention towards the decision cited in (2003) (3) SCC 583 wherein the Hon'ble Court has observed as below :—

"It is fairly well settled that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would

merit action against him, whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. (See *State of Rajasthan v. B. K. Meena* 2) In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct."

14. Now, in the light of the aforesaid observation made by the Hon'ble Apex Court, I proceed to examine the evidence adduced by both the parties on the record.

15. A peep into the charges discloses that they are co-relative, which require a combined reading and the evidence tendered to probe them is to be assessed and discussed altogether.

16. MW-1, Sh. Bhawar Singh in his affidavit has stated the alleged occurrence as stated in the chargesheet. In his affidavit at para 5 in Part A-B he has deposed that the delinquent has also abused the officer in-charge and other staff members of the bank. At para 6 in part A-B, he has further stated that he found the delinquent on duty on several times under intoxication who used to harass the customers and at para 7 in part A-B, he has noticed that the delinquent used to compel him to provide him the liquor from the army canteen and threatened him that in the event of not providing him the liquor, he will not allow him to enter into the bank premises. but in his cross-examination he has admitted that these statements are not recorded in his deposition before the enquiry officer. He has further admitted in his cross-examination that he had not complained to the bank authority of delinquent's drunkenness and the delinquent was a card holder of the army canteen. He, too, has admitted that his statement that the workman was under the influence of alcohol was not recorded in his enquiry statement. Thus, this management witness has improved his version at the trial of the dispute before the Court. It is also pertinent to note here that he has admitted that the delinquent had only abused him and had not permitted him to enter into the bank premises and has admitted that except it nothing else was done against him by the delinquent. As such, on account of this admission of the witness, it sounds that the alleged incident of the misbehavior occurred at the doorstep of the bank premises and even the principal witness of the alleged occurrence had not even entered into the bank premises.

17. MW-2 Sh. Shyam Sunder and MW-3 Sh. Raj Kumar Kamra are said to be the eye-witnesses of the misconduct/occurrence alleged to have taken place before MW-4 Sh. Umesh taylor, the Branch Manager. It is stated

that Sh. Shyam Sunder was working as ~~clear~~ cashier and Sh. Raj Kumar Kamra as Chief Cashier at the time of the incident.

18. Sh. Shyam Sunder in his affidavit has narrated the alleged riotous behaviour of the delinquent and has stated that he misbehaved with Sh. Bhawar Singh and abused the staff members present there.

19. It is also the case of the bank that this witness had written a letter Annexure 8 to the Manager, PNB, Sriganaganagar stating therein that the delinquent remains in the office under influence of alcohol, does not perform his duties properly and the concluding sentence of this letter states that on 10-10-95, he misbehaved with the customers and staff members and abused them. At first, this letter does not contain the description of the alleged incident and, secondly, it speaks of the disorderly behaviour of the delinquent with the customers and the staff members in generality. It has not categorically been pointed out in this letter that the delinquent had abused Bhawar Singh and misbehaved with Raj Kumar Kamra in presence of the Branch Manager. When confronted by this letter, this witness has admitted that portion A-B of para 3 of this affidavit wherein he has stated the alleged occurrence, has not been mentioned in this letter dated. Furthermore, he has admitted that part C-D of his statement contained at para 3 in the affidavit wherein he has said that the delinquent abused all the staff members was not deposed by him before the Enquiry Officer. In his cross-examination, he in response to a question put to him on behalf of the workman, has admitted that the workman had only stated to him that who he is in this matter and, this statement of the delinquent is not a misconduct in his opinion. He also admits that he never complained before the bank authorities that the workman had ever misbehaved with him. Surprisingly, at the end of his cross-examination he has admitted that he had not seen the disorderly behaviour committed by the workman towards the staff members on 10-10-95 and he had gone outside the office, wherefrom he only heard the noise coming from inside the office. Thus, the deposition of this witness is self-contradictory and untrustworthy. He cannot be accepted as an eye-witness of the alleged misconduct.

20. MW-3, Sh. Raj Kumar Kamra while narrating the incident in his affidavit has stated that he had written a letter to the Sr. Manager, PNB, Sriganaganagar on 17-10-95 stating therein the alleged disorderly behaviour committed by the workman. Apart it, in his cross-examination he has also stated that on 10-10-95 he had also written a letter to the Manager wherein he complained of the misconduct committed by the delinquent with him. Thus, it appears from his deposition that two letters, viz., letter dated and 10-10-95 & 17-10-95, were addressed by him to the higher

authority in connection with the alleged incident. Further, he has admitted that part A-B of Para 4 of his affidavit wherein he has described the incident as a whole, was not mentioned in his complaint dated 10-10-95 by him. The reason pointed out by him is that since the officer in-charge was himself present at the scene of the occurrence, he did not consider it necessary to mention it, which does not appear to be plausible. The letter dated 17-10-95 as per his evidence was not forwarded by the officer in-charge of the Lalgarth Extension Counter to the head office and through which mode it was sent to the head office, he could not be able to point it out.

21. Sh. Shyam Sunder (MW-2) in his affidavit has only stated that the delinquent had abused all the staff members and has not categorically pointed out the alleged misbehaved of the delinquent towards Sh. Raj Kumar Kamra, whereas in his cross-examination, Sh. Raj Kumar Kamra has stated that the delinquent had only misbehaved with him and none else. Similarly, MW-1, Bhawar Singh has also not stated in his affidavit that the delinquent had misbehaved with Sh. Kamra. Thus, the deposition of Sh. Kamra that the delinquent had also misbehaved and abused him stands uncorroborated by the other eye-witnesses.

22. MW-4, Sh. Umesh Takyar at para 5 of his affidavit has stated that at the time of the incident Sh. Kamra was sitting near with him where the delinquent came and caught hold of his hand and abused him. His testimony is that Bhawar Singh had complained to him that the delinquent had abused him.

23. Sh. Takyar in his cross-examination has admitted that he had written a letter Annexure 1 to the delinquent seeking explanation from him, wherein he has only stated that on the said date, he misbehaved with Sh. Kamra. The incidence of disorderly behaviour with the customer Bhawar Singh does not find place in this letter. Another letter Annexure 2 was written by Sh. Umesh Takyar to the Sr. Manager at the head office, Sriganagar wherein he has only mentioned the alleged incident relating to Bhawar Singh which does not contain any incidence committed with Sh. Kamra. In his cross-examination, this witness has admitted that on the said date of incidence, the workman had not misbehaved with any other person except with Sh. Kamra and that in the letter Annexure 2, this incident is not mentioned.

24. On the analysis of the documentary as well as oral evidence adduced on behalf of the management, it is manifestly clear that there are major omissions and contradictions amongst the testimony of the eye-witnesses and when such omissions and contradictions are not

explained in a reasonable manner, they run the risk of being completely ignored.

25. As has been noted earlier that Sh. Bhawar Singh that he has admitted in his cross-examination that the delinquent had abused him and had not allowed him to enter into the bank premises, which leads to infer that the alleged incident had taken place at the doorstep of the bank premises. On behalf of the workman, it has been contended that since the alleged misconduct was not committed by the workman in the bank premises, the charge of misconduct is not proved against him. In support of his contention, the Id. representative for the workman has submitted a copy of the unreportable judgment delivered in the matter of Sh. Mohan Singh Vs. United Commercial Bank in the DB Civil Special Appeal No. 201/1984 dated 11-10-1993 wherein the Hon'ble Court has observed as below :—

"In this appeal, respondent have not placed before the Court any material which might go to show or suggest that the alleged misbehaviour of the petitioner-appellant had taken place on the premises of the Bank. The respondent could have very well placed the original complaint, which might have been made by Shri Bhargava, who is said to have been slapped by the petitioner-appellant. From the material that has been placed on record by the Bank, it is difficult to assume or infer that the alleged incident took place on the premises of the Bank. When it is so, the respondents cannot taken any action against the petitioner-appellant for the alleged gross misbehaviour under clause 19.5(c) of the Bipartite Settlement."

26. In the light of the aforesaid observation of the Hon'ble Court and the clauses of the bipartite settlement, the contention advanced on behalf of the workman is fortified and the alleged act of misconduct committed by the workman with Sh. Bhawar Singh outside the bank premises does not amount to be misconduct.

27. On a careful examination of the materials and evidence placed on the record, the management could not establish the charges levelled against the workman by producing the cogent and reliable evidence. Hence, the chargesheet dated 8-1-96 deserves to be quashed and the claim of the workman is liable to be allowed.

28. Accordingly, the reference is answered in the affirmative in favour of the workman and against the management and it is held that the dismissal order dated 25-6-97 is illegal and unjustified which is set aside and the workman is entitled to be reinstated in the service with its continuity and 50 per cent of the back-wages. An award is passed accordingly in these terms.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

AWARD

का.आ. 1991.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या -10/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2004 को प्राप्त हुआ था।

[सं० एल.-12012/38/2002-आई.आर. (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1991.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.-10/2002) of the Central Government Industrial Tribunal-cum Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 16-07-2004.

[No. L-12012/38/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

Case No. CGIT-10/2002

Reference No. L-12012/38/2002/IR (BII)

Shri Kailash Chand Gupta,
S/o Shri Bhagwan S. Tambi,
R/o Manak Chowk,
Dausa (Raj)-303303.

.....Applicant

Versus

The Regional Manager,
UCO Bank,
Shastri Nagar,
Jaipur (Rajasthan)
302016.

.....Non-applicants

PRESENT:

Presiding Officer : Sh. R.C. Sharma
For the applicant : Sh. Suresh Kashyap
For the non-applicant : Sh. Surendra Singh
Date of award : 08-07-2004

1. The Central Government in exercise of the powers conferred under clause D of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (herein after referred to as the Act) has referred the following industrial dispute to this Tribunal for adjudication, which runs as under :—

“Whether the action of the management of UCO Bank in terminating the services of workman Sh. Kailash Chand Gupta, LBYA w.e.f. 3-2-1999 is legal and justified? If not, what relief the workman is entitled and from what date?”

2. Pursuant to the reference the workman in his claim statement has pleaded that he was engaged as Mini Deposit Collector under the small scale scheme (Laghu Bachat Yojna) by the non applicant bank (for short, the bank) on 25-9-1987 on payment of commission on collection basis. He has averred that as the part of his duties he had to give incentives to the customer to open the new accounts by visiting their houses and work places, to collect the funds from them and deposit it in their accounts in the bank and thereafter to prepare the record of the collected funds by working in the bank from 10 A.M. to 3 P.M. According to his averments his duties were similar to that of a regular employee of the bank. He has pointed out that on 3-2-1999 he was denied to open the new accounts. He has stated that his service was terminated in violation of provision under Section 25-F of the Act. He has prayed that his termination order dated 3-2-1997 may be declared as improper and illegal and he may be reinstated with back wages.

3. Resisting the claim of the workman, the non-applicant in his written statement has pleaded that the workman had applied to the bank vide his application Ex.M-1 to work as commission agent under the small scale scheme, who employed as such vide order of the bank Ex. M-2 after holding his interview and it was made clear to him that he will not be an employee of the bank in any sense and the relationship between him and the bank will be that of an agent and principal. It is further averred that after acknowledging the conditions mentioned in Ex. M-2, the workman accorded his consent vide his acceptance letter Ex. M-4. Thus, he acted as a commission agent and acquired the commission as per the appointment letter Ex. M-3. But on 3-2-1999 he was directed not to open the new accounts under the scheme, however, his agency was not terminated and he was permitted to collect the amount pertaining to the old accounts. According to the non-applicant no salary was paid by the bank to the workman, who was not working as a regular employee. The non-applicant has also disputed that the claimant is not covered by the definition

of the workman and the provisions of the Act are not applicable to him.

4. On pleadings the following points for determination were framed:—

1. Whether the non-applicant management had appointed the workman as Mini Deposit Collector on 25-9-1987?

2. Whether the termination of the service of the workman w.e.f. 3-2-1999 by the no-applicant management is unjustified and is in violation of Section 25-F of the Industrial Disputes Act, 1947?

3. Relief, if any.

5. In the evidence the workman has examined himself and in the defence the counter affidavit of Shri Laxmi Chand Meena, Manager was submitted, who was cross-examined on behalf of the workman.

6. On behalf of the bank 4 documents in support of its case have been brought on the record, whereas the workman has chosen not to file any document.

7. I have heard both the parties and have gone through the record.

8. The point-wise discussion follows as under:—

POINT NO. 1:

9. These facts are undisputed that the workman was engaged as a commission agent on 25-9-1987 by the bank under Laghu Bachat Yojna, who was paid the commission on the collection basis and who worked up to 2-2-1999 with the bank. It is further an undisputed fact that on 3-2-1999 he was forbidden to open the new accounts.

10. The Id. representative on behalf of the workman contends that the claimant is a workman within the purview of Section 2(s) of the Act, who was allotted the work of opening of new accounts by the bank and was paid the wages in the form of the commission. In support of his contention the Id. representative has placed his reliance on (2001) 3 SCC 36.

11. Arguing contra, the Id. representative for the non applicant submits that the duty of the workman was to enhance the collections of Laghu Bachat Deposits for which he was paid the commission and therefore he was not a workman and no relationship of the employer and employee between them ever existed. The Id. representative has further stressed upon that the

workman had applied for the said job with the bank and by his acceptance letter Ex. M-3 he had accepted all the conditions laid down in the appointment letter Ex. M-2. In view of this appointment letter, the contention of the Id. representative is that he is an agent to the bank and there is relationship of principal and agent between the two. He has also contended that no wages were fixed, for which he cannot now claim for and he was only denied to open the new accounts, but was permitted to continue the collection of the funds of old accounts.

12. I have bestowed my thoughtful consideration to the rival contentions and have carefully gone through the judicial pronouncement cited before me.

13. The first and foremost question which emerges for determination is as to whether the claimant is a workman as defined under Section 2(s) of the Act.

14. Section 2(s) of the Act lays down as under:—

" 'Workman' means any persons (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, include any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute..."

15. The evidence adduced on behalf of the workman on the point is that his duties were to give incentives to the customer to open the new accounts and enhance the collection of Laghu Bachat Deposits by visiting their houses and work place and to collect the funds and deposit them in the bank. He has stated in his affidavit that as part of his duties he had to prepare the record of the funds by working in the bank and he performed all the duties of the same kind to that of a regular employee of the bank. His evidence is further supported by the letter of appointment of Laghu Bachat Yojana agent Ex. M-2 issued by the bank itself, which describes his duties to endeavor to promote and enhance the collection of the scheme and prescribes even his conduct in his dealings with the bank customers while discharging his duties. It further provides that in conformity with the bank procedure he will render the satisfactory account of the deposits collected under the scheme and shall keep the record of such collections in the manner and in such forms as is prescribed by the bank. He was also made responsible to the bank for the

safe custody of all monies collected by him and to render proper and satisfactory accounts of all the monies collected by him. He was also required to furnish an initial cash security of Rs. 500/- and was paid commission @ 3% on the total deposits collected by him every month.

16. Thus, it thaws from the evidence, oral and documentary, adduced on the record that the claimant had to work in the bank and besides it he was devoting his time for enhancing the collection and collecting the deposits from the customers under the scheme. He was assigned all these duties on behalf of the bank and for promoting the business of the bank. Thus, he was clearly working under the direct control and supervision of the bank for its benefit on payment of the fixed commission accruing on the collected funds and was performing the duties of the similar kind to that of a regular employee in the bank. Therefore, the position/status of the workman which emerges out from the aforesaid facts is equivalent that of a regular employee of the bank.

17. On account of the aforesaid grounds the evidently relationship which existed between them is that of an employer and an employee. Thus, even on the basis of the duties assigned to the workman vide appointment letter Ex. M-2, the relationship between the two appears to be that of an employer and an employee contrary to the relationship of the principal and agent as described in Ex. M-2. As such, the claimant has succeeded in establishing the fact that he is a workman as defined Section 2(s) of the Act.

18. The working tenure of the workman from 25-9-1987 to 2-2-1999 has not been disputed on behalf of the bank. It is, thus, clear that in the previous calendar year to his termination he has worked over 240 days under the employment of the bank.

19. It was then contended on behalf of the bank that the workman was not employed on the wage-basis, but was paid commission on the funds collected by him as per the terms and conditions laid down in Ex. M-2. On behalf of the workman this fact has not been controverted, but the workman has only asserted that he was earning in between Rs. 4000/- to 5000/- per month as his commission during the period of his employment. He has specifically incorporated this fact in his claim statement and there after at para 2 of the affidavit, who could not be shaken on the point by the bank in his cross-examination. Therefore, his earning in the form of his commission on the basis of the collected funds can safely be calculated at the tune of Rs. 4000/- per month.

20. Now, I advert to the question as to whether the employment of the workman was terminated? The Id. representative on behalf of the bank has much emphasized that the workman was only prohibited to open the new accounts w.e.f. 3-2-1999, but he was permitted to collect the funds of the old accounts. Therefore, his contention is that he was not disengaged from the employment and the workman thus continues to work under the employment of the bank and the aforesaid refusal for opening the new accounts cannot be termed as his termination.

21. The Id. representative for the workman has sought to controvert this submission.

22. Admittedly, the workman whose duties were assigned vide appointment letter Ex. M-2, was forbidden to open the new accounts of the customers, for which he was engaged by the bank, and it leads to infer that he was forbidden to perform the major part of his duties and his exclusion from opening the new accounts and promoting and enhancing the collection in the scheme tentamounts to the termination of his employment since the date he was declined to act as such. Thus refusal of the bank to the workman for opening the new accounts w.e.f. 3-2-1999 can safely be treated as his termination from employment from such date. Thus, I find no force in the contention canvassed on behalf of the bank, which is not sustainable and is repelled.

23. The Id. representative for the workman in support of his contention has invited my attention towards (2001) 3 SCC 36 wherein the Hon'ble Apex Court on the similar facts has affirmed the findings of the Tribunal that the deposit collectors are workmen within the purview of Section 2(s) of the Act and that the commission received by the deposit collectors is nothing else but wage, which is dependant on the productivity. It has been further held by the Hon'ble Court that the commission is paid for promoting the business of the bank. The facts of the referred to case are squarely applicable to the case at hand and the judgment supra fortifies the submission advances on behalf of the workman.

24. For the foregoing reasons and in the aforesaid manner this point is decided in favour of the workman and against the bank

POINT No. 2

25. On the analysis of the evidence adduced by both the parties under the aforesaid points, it has been established that the workman has worked over 240 days under the employment of the bank. It is further

revealed that his termination was made without following the mandates of Section 25-F of the Act inasmuch as no notice or wages in lieu of notice and compensation were paid to him as required under Section 25-F of the Act. Therefore, it is proved that the bank has acted in violation of the provision under Section 25-F of the Act and the said termination amounts to retrenchment.

RELIEF

26. On a careful examination of the facts and circumstances available on the record the workman has been able to establish his claim, which deserves to be allowed.

27. In the result, the reference is answered affirmatively in favour of the claimant and against the non applicant that the termination of services of the workman w.e.f. 3-2-1999 is illegal and unjustified. His claim is allowed and he is reinstated in service with 50% back wages, which he be entitled to get at the rate he was earning the commission per month on the basis of collected funds. The Award is passed accordingly.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 28 जुलाई, 2004

का.आ. 1992.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 10/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-07-2004 को प्राप्त हुआ था।

[सं० एल.-12012/98/2003-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th July, 2004

S.O. 1992.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. -10/2004) of the Central Government Industrial Tribunal-cum Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 16-07-2004.

[No. L-12012/98/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, JAIPUR

Case No. CGIT-10/2004

Reference No. L-12012/98/2003/IR (B-II).

Sh. Bhudev Singh
S/o Sh. Shyamlal,
Sevar Road,
Gandhi Nagar Colony,
Behind Jain Mandir,
Infront, of Pitam Kumhar,
Bharatpur, Rajasthan.

.....Applicant

Versus

The Regional Manager
The Punjab National Bank,
Regional Office,
Jaipur.

.....Non-applicants

Present :

Presiding Officer : Sh. R.C. Sharma

For the applicant : None

For the non-applicant : Sh. D.S. Sharma

Date of award : 06-07-2004

AWARD

1. The Central Government in exercise of the powers referred under Clause 'D' of sub-Sections 1 and sub-section 2(A) to Section 10 of the Industrial Disputes Act, 1947 has referred the following industrial dispute to this Tribunal for adjudication which runs as under :—

"Whether it is a fact that Sh. Bhudev Singh, S/o Sh. Shyamlal was engaged by the management of Punjab National Bank during the period from 1-9-1990 to 5-5-2001? If so, whether his termination from service w.e.f. 5-5-2001 is legal and just? If not justified, what relief is the disputant concerned entitled to?"

2. Pursuant to receipt of this reference in this Court, registered notices were issued to both the parties. Despite the service of the registered notice on the workman, he failed to appear on the consecutive dates on 8-6-2004 & 5-7-2004. It appears that he is not interested to contest his claim.

3. Accordingly, a "No Dispute Award" is passed in this matter.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 21 जुलाई, 2004

का.आ. 1993.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई०एस०आई०सी० हॉस्पिटल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली-II के पंचाट (संदर्भ संख्या 60/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-15012/1/96-आई.आर. (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 21st July, 2004

S.O. 1993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 60/96) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of E.S.I.C. Hospital and their workman, which was received by the Central Government on 21-7-2004.

[No. L-15012/1/96-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, RAJENDRABHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

Presiding Officer : R. N. Rai L.D. No. 60/96

IN THE MATTER OF:—

Kamlesh

Versus

Management of E.S.I.C. Hospital

AWARD

The Ministry of Labour by its letter No. L-15012/1/96 /IR (Vividh) Central Government Dt. 30-05-1996 has referred the following point for adjudication.

The point runs as hereunder :-

“Whether the action of the management of ESIC in terminating the service of Smt. Kamlesh, Safai Karamchari at ESIC Hospital, Basaidarapur w.e.f. 24-8-1994 is legal and justified? If not, what relief the workman is entitled to”

The claimant has filed statement of claim. In their statement of claim, she has stated that she was appointed by the management and was working continuously till 24-08-1994. She was appointed on 24-2-1993. The performance was upto the required standard. The management was not providing certain legal benefits such as

appointment letter, attendance card, leave book casual leave, minimum wages, earned leave etc. When the workman demanded the same, the management instead of providing the same, terminated the services of the workman with an illegal intention and without resorting to any legal proceedings. The workman has raised this Industrial dispute before this Hon'ble Court through Union but the management has neither taken the workman back on duty nor has accepted the just and genuine demands of the workman.

The respondent management has filed written statement. In the written statement, they have stated that the workman was appointed purely on casual daily wages basis and she was called for interview in July, 1994 along with the candidates called from the Employment Exchange but she was not selected. She has no right to come to the court at this stage. Her application is liable to be rejected. She was appointed on vacancies due to the leave of the regular employees. Few regular sweepers were working in the hospital but their appointment was against regular vacancies. Their names were called from the Employment Exchange and they were selected by a Selection Board through proper interview. Some of the applicants/workmen did not turn up for interview and the rest who turned up were not selected. The list is annexed herewith which is marked as “A”. All the paragraphs have been denied and it has been asserted that the management has followed the procedure of law before termination of the services of the applicant.

The workmen has filed rejoinder. In her rejoinder, she has denied each and every paragraph of the written statement and she has asserted that she was appointed by the management and after 240 days, her services were terminated without giving her any notice or compensation. She has completed more than 240 days service so she ought to have been given notice and compensation, as such, the termination of the services is illegal.

Heard arguments from both the sides and perused the papers on the record.

It was argued from the side of the management that in case the workman has completed 240 days work, Section 25 of the ID Act is attracted. Annexure “A” is the list issued by the management. From perusal of this list, it appears that the applicant in this case is at Sl. No. 13 and the applicant Kamlesh was appointed on 26-2-1993. The services of Smt. Kamlesh were terminated on 24-08-1994. By calculation of the above chart, it is established perfectly that workman has put in more than 240 days service. This paper is admitted by the management and the management has filed seniority list. It was submitted vehemently from the side of the workman that in case, she has put in more than 240 days service, her services cannot be terminated without giving her compensation and notice. No compensation has been given to her as such Section 25(F) is attracted and she deserves to be reinstated. It was submitted from the side of the management that she was

purely temporary and casual employee. She was appointed when the regular workman were on leave. As such, her appointment was on leave vacancy. When there was regular post vacant, she was called for interview but she was not selected by the management. It was submitted from the side of the workman that there is no question of interview in case she did not appear in the interview. Her right under Section 24 of the ID Act shall not be deemed to be waived. She has completed 240 days service and her service was continuous so she cannot be deemed to be appointed on leave vacancy. According to the principles laid down by the Hon'ble Supreme Court, at least the principle of first cum last go should be observed by the management and they ought to have been absorbed.

From perusal of the documents on the record, I am of the considered view that the workman had completed more than 240 days service and she has not been paid the retrenchment compensation so she deserves to be reinstated. The workman is the manual labour and it cannot be said that she has been sitting idle and doing nothing and she has not disclosed her source of maintenance in her application, as such she must have been doing the work of sweeping and she cannot be deemed to be absolutely unemployed. In the circumstances, in my opinion, she should be reinstated from 24-08-1994 with 25% back wages.

The reference is replied thus :—

The action of the Management of ESI Hospital, Basaidarapur in terminating the services of Smt. Kamlesh, Safai Karamchari w.e.f. 24-08-1994 is neither just, nor fair and legal? The workman deserves to be reinstated from 24-08-1994 with 25% back wages.

The award is given accordingly.

Dt. 21-06-2004.

R.N. RAI, Presiding Officer

नई दिल्ली, 21 जुलाई, 2004

का.आ. 1994.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई०एस०आई०सी० हॉस्पिटल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली-II के पंचाट (संदर्भ संख्या 22/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-15011/1/95-आई.आर. (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 21st July, 2004

S.O. 1994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/96) of the Central Government Industrial Tribunal-cum-Labour

Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of E.S.I.C. Hospital and their workman, which was received by the Central Government on 21-7-2004.

[No. L-15011/1/95-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT-II,
RAJENDRA BHAWAN, GROUND FLOOR,
RAJENDRA PLACE
NEW DELHI**

Presiding Officer : R. N. Rai I.D. No. 22/96

IN THE MATTER OF :—

Asha Ram and Others

Versus

Management of E.S.I. Hospital

AWARD

The Ministry of Labour by its letter No. L-15011/1/95 /IR (Vividh) Central Government Dt. 28-02-1996 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of ESI Hospital, Basaidarapur in terminating the services of Shri Asha Ram, Shri Ravi Kumar, Shri Mukesh, Smt. Urmila and Ms. Sunita, all Safai Karamcharies w.e.f. 24-08-1994 is just, fair and legal? If not, to what relief these five workmen are entitled?”

The claimant has filed statement of claim. In their statement of claim, they have stated that they were appointed by the management and were working continuously till 24-08-1994. they were appointed in 1993 and 1991. Their performance was upto the required standard. The management was not providing certain legal benefits such as appointment letter, attendance card, leave book, casual leave, minimum wages, earned leave etc. When the workman demanded the same, the management instead of providing the same, terminated the services of the workman with an illegal intention and without resorting to any legal proceedings. The workman have raised this Industrial dispute before this Hon'ble Court through Union but the management has neither taken the workman back on duty nor has accepted the just and genuine demands of the workmen.

The respondent management has filed written statement. In the is written statement, they have stated that the workman were appointed purely on casual daily wages basis and they were called for interview in July.

1994 alongwith the candidates called from the Employment Exchange but they were absent. They have no right to come to the court at this stage. Their application is liable to be rejected. They were appointed on vacancies due to the leave of the regular employees. Few regular sweepers were working in the hospital but their appointment was against regular vacancies. Their names were called from the Employment Exchange and they were selected by a Selection Board through proper interview. Some of the applicants/workmen did not turn up for interview and the rest who turned up were not selected. The list is annexed herewith which is marked "A". All the paragraphs have been denied and it has been asserted that the management has followed the procedure of law before termination of the services of the applicants.

The workmen have filed rejoinder. In their rejoinder, they have denied each and every paragraph of the written statement and they have asserted that they were appointed by the management and after 240 days, their services were terminated without giving them any notice or compensation. They have completed more than 240 days service so they ought to have been given notice and compensation, as such, termination of the services is illegal.

Heard arguments from both the sides and perused the papers on the record.

It was argued from the side of the management that in case the workman has completed 240 days work, Section 25F of the ID Act is attracted. Annexure "A" is the list issued by the management. From perusal of this list, it appears that the applicants in this case are at Sl. No. 1 to 5 applicants Asha Ram and Mukesh Kumar were appointed on 24-2-1993, and the applicant Ravi Kumar was appointed on 16-12-1991. Smt. Urmila was appointed on 2-1-1992 and Smt. Sunita was appointed on 24-2-1993. In the same manner, the services of Shri Asha Ram was terminated on 25-08-1994 and the services of Shri Mukesh Kumar was terminated on 24-08-1994 and the services of Ravi Kumar was terminated on 27-08-1994 and the services of Smt. Urmila was terminated on 28-08-94 and the services of Smt. Sunita was terminated on 24-08-1994. By calculation of the above chart, it is established perfectly that the workmen have put in for more than 240 days service. Shri Ravi Kumar has worked for 895 days. Smt. Urmila has worked for 809 days. Shri Asha Ram has worked for 420 days and Shri Mukesh has worked for 440 days. These papers are admitted by the management and the management has filed seniority list. It was submitted vehemently from the side of the workmen that in case, they have put in for more than 240 days service, their services cannot be terminated without giving them compensation and notice. No compensation has been given to them as such Section 25(F) is attracted and they deserve reinstatement. It was submitted from the side of the management that they were purely temporary and casual employees. They were appointed when the regular workmen were on leave. As such, their appointment

was on leave vacancies. When there was regular post vacant, they were called for interview but they were not selected by the management. It was submitted from the side of the workmen that there is no question of interview in case they did not appear in the interview, their right under Section 24 of the ID Act shall not be deemed to be waived. They have completed 240 days service and their service was continuous so they cannot be deemed to be appointed on leave vacancies. According to the principles laid down by the Hon'ble Supreme Court, at least first cum last go should be observed by the management.

From perusal of the documents on the record, I am of the considered view that the workmen had completed more than 240 days service and they have not been paid the retrenchment compensation. So they deserve to be reinstated.

The workmen are the manual labourers and it cannot be said that they have been sitting idle and doing nothing and they have not disclosed their source of maintenance in their application. As such they must have been doing the work of sweeping and they cannot be deemed to be absolutely unemployed. In the circumstances, in my opinion they should be reinstated from 24-08-1994 with 25% wages.

The reference is replied thus :—

The action of the Management of ESI Hospital, Basaidarapur in terminating the services of Shri Asha Ram, Shri Ravi Kumar, Shri Mukesh, Smt. Urmila and Ms. Sunita, all Safai Karamcharies w.e.f. 24-08-1994 is neither just, nor fair nor legal? The workmen deserve to be reinstated from 24-08-1994 with 25% back wages.

The award is given accordingly.

R. N. RAI, Presiding Officer

Dated 8-7-2004

नई दिल्ली, 22 जुलाई, 2004

का.आ. 1995.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को०लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, धनबाद के पंचाट (संदर्भ संख्या 258/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/266/2001-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 1995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 258/2001) of the Central Government Industrial Tribunal/Labour

Court II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 21-7-2004.

[No. 20012/266/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD

Present

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

Reference No. 258 of 2001

Parties : Employers in relation to the management
of Barora Area No. I of M/s. BCCL and their
workman.

APPEARANCES :

On behalf of the workman : None
On behalf of the employers : Mr. R.N. Ganguly,
Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th July, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/266/2001-IR (C-1), dated, the 18th September, 2001.

SCHEDULE

"Whether the demand of the union for payment of differential wages to Sri Raj Keshar Chouhan Fireman/Conveyor Operator for the period from 20-3-2000 till date for working as Tyndal in Cat. VI and to transfer him back to Loyabad Coke Plant is proper and justified? If so, to what relief is the concerned workman entitled?"

2. In this reference neither the concerned workman nor his representative appeared before this Tribunal. Management, however, made their appearance through the learned Advocate. It transpires from the record that the instant reference is pending since 2001 for disposal. It also further reveals from the record that sufficient opportunities were given to the workman side, but inspite of giving such opportunities the workman/union failed to turn up before this Tribunal and even they did not consider necessary to file their Written Statement. Gesture of the workman/union if is taken into consideration will expose clearly that the workman or his union is not interested to proceed with the

hearing of this case. This Tribunal also finds no reason to drag on the case suo moto for days together. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 22 जुलाई, 2004

का.आ.1996.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को०लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II धनबाद के पंचाट (संदर्भ संख्या 33/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/200/2002-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 1996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2003) of the Central Government Industrial Tribunal/Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.C.C.L. and their workman, which was received by the Central Government on 21-7-2004.

[No. 20012/200/2002-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD.

PRESENT

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

Reference No. 33 of 2003

Parties : Employers in relation to the manage-
ment of. M/s. BCCL and their
workman.

APPEARANCES :

On behalf of the workman : None
On behalf of the employers : Mr. U.N. Lall,
Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th July, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/200/2002-IR(C-I), dated the 10th March, 2003.

SCHEDULE

"Whether the demand of the RCMS from the management of BCCL, Katras Area to provide employment under NCWA-VI to the dependent wife Smt. Lila Devi of the late Duga Hari is proper and justified? If so, to what relief is the wife of deceased workman entitled?"

2. In this reference neither the concerned workman nor his representative is found present. Mr. U.N. Lall learned Advocate for the management appeared before this Tribunal. It reveals from the record that the instant reference is pending since 2003 for disposal. It also further transpires that sufficient opportunities were given to the workman/union but inspite of giving all such opportunities they failed to appear before this Tribunal and even they did not consider necessary to file Written Statement on their behalf. Gesture of the workman/union it is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. This Tribunal also finds no reason to drag on the case *suo moto* for days together. Under such circumstances a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 जुलाई, 2004

का.आ. 1997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा०को०को० लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II धनबाद के पंचाट (संदर्भ संख्या 196/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/158/2001-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 1997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 196/2001) of the Central Government Industrial Tribunal/Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of B.C.C.L. and their workman, which was received by the Central Government on 21-7-2004.

[No. L-20012/158/2001-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD.

PRESENT:

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 196 of 2001

PARTIES : Employers in relation to the management of Katras Area of M/s. BCCL and their workman.

APPEARANCES :

On behalf of the workman : None

On behalf of the employers : Mr. U.N. Lall, Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 5th July, 2004.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/158/2001-IR(C-I), dated the 10th July, 2001.

SCHEDULE

"Whether the demand of the RCMS from the management of West Mudidih Colliery of M/s. BCCL, for regularising Sri Bhola Rai as Wagon Loader is justified? If so, to what relief is the concerned workman entitled and from what date?"

2. In this reference neither the concerned workman nor his union appeared before this Tribunal. Management however made appearance through their learned Advocate. It transpires from the record that the instant reference is pending since 2001. It also further reveals from the record that sufficient opportunities were given to the workman/union, but inspite of giving all such opportunities the workman/union failed to turn up before this Tribunal and even they did not consider necessary to file Written statement on their behalf. Gesture of the concerned workman it is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. This Tribunal also finds no reason to drag on the case *suo moto* for days together. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 जुलाई, 2004

का.आ. 1998.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, धनबाद के पंचाट (संदर्भ संख्या 241/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/253/2001-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 1998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 241/2001) of the Central Government Industrial Tribunal/Labour Court No. II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 21-7-2004.

[No. L-20012/253/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 241 OF 2001

PARTIES:

Employers in relation to the management of Block-II Area of M/s. BCCL and their workman

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. A. K. SINHA,
Advocate.

State : Jharkhand Industry : Coal

Dated Dhanbad, the 5th July, 2004

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/253/2001-IR(C-I), dated, the 19th September, 2001.

SCHEDULE

"Whether the action of management of M/s. BCCL, in not providing employment to Sri Haradhan Gope the dependent son of Late Jhari Gope, Ex-O. B.R. worker of N.O.C. P of Block-II Area of M/s. BCCL as

per provision of 9-3-02 of NCWA-V is justified, legal and proper? If not, to what relief is Sri Haradhan Gope entitled?"

2. In this reference neither the concerned workman nor his representative, appeared before this Tribunal. Management, however, made their appearance through learned Advocate. It transpires from the record that the instant reference is pending since 2001 for disposal. It also further reveals from the record that sufficient opportunities have been given to the workman side. But inspite of giving ample opportunities the workman/union failed to turn up before this Tribunal and even they did not consider necessary file their Written Statement. Gesture of the workman/union if looked into will expose clearly that neither the workman nor his union is interested to proceed with the hearing of this case. This Tribunal as such finds no reason to drag on the case *suo moto*. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 जुलाई, 2004

का.आ. 1999.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, धनबाद के पंचाट (संदर्भ संख्या 129/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल.-20012/571/2000-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 1999.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 129/2001) of the Central Government Industrial Tribunal/Labour Court No. II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-7-2004.

[No. L-20012/571/2000-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I. D. Act, 1947

REFERENCE NO. 129 OF 2001**PARTIES:**

Employers in relation to the management of
M/s. BCCL and their workman

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. U. N. Lal, Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 6th July, 2004

AWARD

The Government of the India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/571/2001-C-I, dated, the 27th April, 2001.

SCHEDULE

"Whether the action of the management of M/s. BCCL, in reducing the pay of Sh. Dilip Kumar Pandit, Asstt. Foreman, Kustore Colliery from Rs. 3340 to Rs. 3230 upon promotion in Grade 'C' is justified, legal and proper? If not, to what relief is the workman entitled?"

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

They submitted that the concerned workman being a workman of Kustore Area under the management got his promotion from Mechanical Fitter Cat. VI to Asst. Foreman in Technical and Supervisory Grade-C w.e.f. 15-4-1999. They submitted that after promotion basic salary of the concerned workman was fixed at Rs. 3940 and from June-July, 99 upto Sept. October, 1999 he drew that salary from the office of the management but thereafter all on a sudden they fixed his basic salary at Rs. 3230 P.M. from November, December, 1999 without any basic arbitrarily, illegally and violating the principal of natural justice.

They submitted that according to the norms of the management the D.P.C. examination of the concerned workman was held in the year 1998 and the said result ought to have been published in the month of December, 1998 but the said result was passed one year after and for which he was deprived of one increment on promotion which he was entitled to get very much. Accordingly he submitted representation to the management requesting them to issue the order of requisite increment but they did not take any step and for which he through his sponsoring union raised an industrial dispute for conciliation which ultimately resulted Reference to this Tribunal for adjudication.

They accordingly submitted prayer to pass award directing the management to fix his basic salary at Rs. 3340 on promotion in Grade-C with all other consequential relief.

Management on the contrary after filing Written

Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman. They submitted that Pay scale of Cat. VI was Rs. 76.42-3.54-125.98 and that of Technical and Supervisory Gr. C is Rs. 1990-100-2790-110-3670 as per N.C.W.A. They submitted that the concerned workman was promoted from Cat. VI to Tech. & Supervisory Gr. C w.e.f. April, 1999, In March, 1997 his basic pay was Rs. 3091.40 P.M. in Cat. VI. Accordingly, after promotion his basic pay was fixed at Rs. 3091.40 i.e. his basic pay in previous grade in March, 1999 plus his promotional benefits with one advance increment of Rs. 110.00 in Technical and Supervisory Gr. 'C' and total becomes Rs. 3201.00 but fitment was given to Rs. 3230.00 P.M. at the available stage as per policy of the company.

They submitted that due to inadvertant mistake his basic pay was fixed at Rs. 3340 P.M. instead of Rs. 3230 P.M. w.e.f. 15-4-99 and for which relying on that wrong fixation of pay the claim which the sponsoring Union placed for the concerned workman finds no basic. They also categorically denied the fact that they did not commit any illegality, took any arbitrary decision violating the principle of natural justice in fixing his basic pay at Rs. 3230.00 P.M. on his promotion w.e.f. the date of his promotion rectifying the inadvertant mistake in question. Accordingly, they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

"Whether the action of the management of M/s. BCCL in reducing the pay of Shri Dilip Kumar Pandit, Asstt. Foreman, Kustore Colliery from Rs. 3340 to Rs. 3230 upon promotion in Grade 'C' is justified, legal and proper? If not, to what relief is workman entitled?"

5. FINDING WITH REASONS

It transpires from the record that neither the concerned workman nor the sponsoring Union was found present at the time of final hearing of this case in spite of giving sufficient scope. On the contrary management with a view to substantiate their claim examined one witness. The evidence of MW-1 was recorded expert as none appeared for the concerned workman.

Now considering the facts disclosed in the pleadings of both sides and also considering evidence of MW-1 it transpires that the concerned workman was posted under the management at Kustore Area II as Mechanical Fitter Cat. VI. It appears that D.P. C. Recommended the name of the concerned workman for his promotion in Technical and Supervisory Grade C. In view of that recommendation management issued promotional order in favour of the concerned workman in the post of Technical and Supervisory Gr. C w.e.f. 15-4-99 in the pay scale of Rs. 1990-100-2790-110-3670 as per N.C.W.A. It is the

contention of the management that basic pay of the concerned workman in Mechanical Fitter Cat. VI as on March, 1999 was 3091.00 P.M. This fact has not been denied neither by the concerned workman nor by the sponsoring Union. It has been submitted by the management that when a workman gets his promotion in Technical and Supervisory Gr. C his fitment in the basic pay of the new scale is done by giving one additional increment, as per policy of the company. This fact also was not denied by the concerned workman. Management submitted that as per their policy basic pay of the concerned workman after his promotion w.e.f. April, 1999 was fixed @ Rs. 3230.00. They submitted that due to inadvertant mistake his basic pay was fixed at Rs. 3340.00 P.M. w.e.f. 15-4-99 and in support of this claim MW-1 during his evidence relied on the pay order of the concerned workman issued by the management. Ext. M-2 shows that his basic pay was actually, 3230.00 P.M. w.e.f. April, 1999. It is the contention of the management that they rectified the error the moment it was detected and for doing so they did not commit any illegality. After considering all material papers and also considering basic pay of the concerned workman in the month of March, 1999 in Cat. VI, I find no dispute to hold that management did not commit any illegality in fixing his basic pay of Rs. 3230.00 w.e.f. 15-4-99. Accordingly, onus is on the concerned workman to justify that management illegally reduced his basic pay of Rs. 3230.00 P.M. from Rs. 3340.00 P.M. which they fixed earlier on getting his promotion w.e.f. 15-4-99. It is seen from the pleading that he has brought some allegations against the management for causing delay in giving promotion to him but inspite of claiming so he failed to meet the allegations by adducing cogent evidence. Here the moot point for consideration is whether management illegally reduced the basic pay of the concerned workman to Rs. 3230 from Rs. 3340.00 with effect from 15-4-99. It is seen that management in course of hearing specifically assigned reason under which circumstances they rectified the error in the matter of fixing basic pay of the concerned workman. They disclosed that rectification of error in no circumstances can be considered as reduction of pay. On careful consideration of all the material fact I hold that the management did not commit any illegality in rectifying the basic pay of the concerned workman to Rs. 3230.00 P.M. w.e.f. 15-4-99 instead of Rs. 3340.00 showing the reasons which I have already discussed above.

Accordingly, concerned workman is not entitled to get any relief.

In the result, the following Award is rendered:—

“The action of the management of M/s. BCCL in reducing the pay of Shri Dilip Kumar Pandit, Asstt. Foreman, Kustore Colliery from Rs. 3340 to Rs. 3230 upon promotion in Grade ‘C’ is justified, legal and proper. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 22 जुलाई, 2004

का.आ. 2000.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, धनबाद के पंचाट (संदर्भ संख्या 279/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-7-2004 को प्राप्त हुआ था।

[सं० एल-20012/416/2001-आई.आर. (सी-1)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 22nd July, 2004

S.O. 2000.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 279/2001) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-7-2004.

[No. L-20012/416/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I. D. Act., 1947

REFERENCE NO. 279 OF 2001

PARTIES:

Employers in relation to the management of Kusunda
Area of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. U.N. Lal, Advocate.

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 7th July, 2004

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/416/2001 IR(C-I), dated, the 23rd October, 2001.

SCHEDULE

“Whether the action of the management of Kusunda Area of M/s. BCCL, in not providing employment to the wife of late Surja Bhuia, Ex-Miner Loader is justified, If not, to what relief is said dependent of the workman concerned entitled?”

2. In this reference neither the concerned workman nor his representative, appeared before this Tribunal. Management, however, appeared through their learned Advocate. It transpires from the record that the instant reference is pending since 2001 for disposal. It also reveals from the record that several opportunities had been given to the workman/union, but inspite of giving ample opportunities they have failed to turn up before this Tribunal and even they did not consider necessary to file their Written Statement. Gesture of the workman/union if is taken into consideration will expose clearly that the workman/union is not interested to proceed with this case. This Tribunal also finds no reason to drag on the case for days together. Under such circumstances, a 'No dispute' Award is rendered and the instant reference is disposed of on the basis of 'No dispute' Award presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 23 जुलाई, 2004

का.आ. 2001.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑर्डनैन्स फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 4/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-7-2004 को प्राप्त हुआ था।

[सं० एल-14012/30/98-आईआर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd July, 2004

S.O. 2001.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/99) of the Central Government Industrial Tribunal/Labour Court No. 1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Ordnance Factory and their workman, which was received by the Central Government on 23-7-2004.

[No. L-14012/30/98-IR (DU)]

KULDEEP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

Presiding Officer, Shri S. S. BAL

I.D. NO. 4/99

In the matter of Dispute between :

Shri Ashok Kumar S/o Shri Delay Ram
R/o 494 Khurbura Mohalla,
Dehradun-248001.

Workman

Versus

General Manager, Indian Ordnance Factories
Dehradun, Dehradun-248008

Management

AWARD

The Central Government in the Ministry of Labour has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Ordnance Factory Raipur, Dehradun in terminating the services of Shri Ashok Kumar s/o Shri Delay Ram, Ex-Daily Paid Sweeper is legal and justified? If not, to what relief he is entitled?"

2. The workman was appointed as daily rated sweeper on 19-5-89 and was given appointment letter. He worked upto 13-12-94. The workman further alleged that he had requested for this regularisation vide letter dated 31-12-93 and also made verbal request but all in vain; that on 1-1-94 the employer terminated his services without giving any notice or retrenchment compensation under Section 25-N of the I. D. Act. That the workman has completed more than 240 days of services continuously in each and every year of his service tenure. That the applicant being a schedule caste candidate has a legitimate right for being considered for regularisation but the employer for ulterior motives have deliberately deprived to him from the benefits of regularisation and illegally terminate the services of the applicant. That the employees junior to him were retained by the management. That the workman is unemployed from the date of his termination and also became over aged for getting the another suitable job. He has prayed for reinstatement with all consequential benefits and backwages and also prayed for direction to the management to grant regularisation to the workman since the date when his juniors got regularisation.

3. In the written statement the management denied the date of appointment given by the workman and alleged that he was appointed as meretricious sweeper w.c.f. 30-5-89 and worked upto 1992. It is also denied that he worked upto 13-12-94. It is alleged that the request for regularisation of the workman could not be accepted to in terms of O.F. Board letter No. 75/76/MISC/A/NI dated 15-7-93 where it has been clarified that the daily rated sweeper who had put in 240 days service in a year for two years continuously or more their service can be regularised. Since the applicant was not regular in attendance and did not work for the required 240 days in a calendar year for two consecutive years, his services were not regularised.

4. In the rejoinder the workman denied the pleas of the management and reiterated his claim statement.

5. Since none is appearing for the workman in this case for the last about 7 hearings it appears that the workman is not interested in prosecuting his case. Hence No dispute Award is passed in this case. Award is given accordingly.

Dated : 19-7-2004

S. S. BAL, Presiding Officer

नई दिल्ली, 23 जुलाई, 2004

का.आ. 2002.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 3/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-07-2004 को प्राप्त हुआ था।

[सं. एल.-42011/173/93-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd July, 2004

S.O. 2002.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/95) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 23-07-2004.

[No. L-42011/173/93-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER : Shri S.S. Bal

I. D. No. 3/95

In the matter of dispute between :

Shri Khumb Raj
S/o Shri Jagdish Goswami,
C/o CPWD EU, E-26, (Old Qtrr).
Raja Bazar, Baba Khark Singh Marg,
New Delhi.

Workman

Versus

The Executive Engineer, Constr.
Division-VII, CPWD.
I.P. Bhawan,
New Delhi.

Management

Appearances :

Shri B. K. Pd. A/R for Workman.

Shri B. K. Aggarwal for Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/173/93-IR(DU) dated 2/8-12-94 has referred the following industrial dispute to this Tribunal for adjudication :—

*Whether the action of the management of Executive Engineer, Construction Division VII, CPWD, New

Delhi in terminating the services of Shri Khumb Raj Beldar w.e.f. 18-8-92 is proper, legal and justified? If not, to what relief, the workman is entitled?"

2. Brief facts as culled from record are that the claimant Shri Khumb Raj applicant/claimant was engaged as Beldar on muster roll w.e.f. 4-6-85 and he worked continuously upto 18-8-1992. The management levelled charges of misbehaviour against the workman. The Management issued show-cause notice to him on 17-8-92 and filed reply of the same on 18-8-92 at 2 p.m. However, Management terminated his services w.e.f. 18-8-85 vide order dated 18-8-92 without taking into consideration the explanation furnished by the workman. The termination order is impugned as illegal, unjustified and have been passed in violation of principal of natural justice and without observance of provisions contained in the I.D. Act, without observing the established procedure and conducting proper enquiry, without payment of any compensation. The workman further claimed that persons junior to him in the same category were retained by the management and their services were regularised in the time scale of Rs. 750—940 and the scale of pay which the workman was drawing along with allowance except increment. He has claimed reinstatement with full back wages, continuity in service and all consequential benefits.

3. The Management contested the claim of the workman by filing written statement denying the averments contained in the statement of claim pleading that duty place of the workman was Chanakyapuri. However, he was found at Bihar Bhawan, Chanakyapuri site on 8-8-92 in drunken condition and came at 11.30 a.m. to the office of A. E. and demanded Rs. 500 and on refusal he manhandled and misbehaved with Shri V. K. Bansal, Junior Engineer who was on duty and ran away from the office. The workman was issued show-cause notice dated 11-8-92 for misconduct but he did not accept the same. Then reminder on 14-8-92 was sent which was also avoided. However, he ultimately received show-cause notice on 17-8-92 to which reply was received on 18-8-92. No reply to the show-cause notice dated 18-8-92 was received in the office. The reply relied upon by the workman is forged and the workman filed the reply after he was discharged on 18-8-92 only. He was discharged from service on misbehaviour by the competent authority for coming to the office of Junior Engineer in drunken condition.

4. In the rejoinder the workman denied the averments made in the written statement and reiterated the contents of his claim statement.

5. I have heard Shri B.K. Pd. A/R for the workman and Shri B. K. Aggarwal A/R for the management, and perused the record meticulously.

6. Shri B. K. Pd. learned A.R. for the workman has contended that the action of the management in terminating services of the workman is illegal and not in accordance

with law and is penal in nature. No preliminary enquiry was conducted or no show-cause notice was issued, even the explanation of the workman furnished by the workman was not taken into consideration and lastly that the order has not been passed by competent authority. Shri B. K. Pd. has referred to the decision reported in D. K. Yadav Vs. J.M.A. Industries Ltd., delivered by Supreme Court in Civil Appeal No. 166 (NL)/1983 dated 7-5-83 Full Bench S.C. decision, Hindustan Tin Work Ltd., Vs. Its employees S.C. 1978-II LLJ 474. Nar Singh Pal Vs. Union of India and other, 2000 Lab. I.C. 1377, Bishamber Lal Kapur Vs. Allahabad Bank and others, 2002 Lab. I.C. 1532 (Delhi High Court), 1999 Lab. I.C. 619 (SC) B. S. Majumdar and M. Jagannadha Rao JJ. MCD Vs. Praveen Kumar Jain and others. On the contrary learned A.R. for the Management Shri B. K. Aggarwal justified its action contending that the workman failed to reply to show-cause notice, that the workman misbehaved by giving beating to senior officer by abusing J.E. which amounts to misbehaviour. Hence his services were dispensed with. Mr. Aggarwal also expressed his desire to furnish citations but failed to do so till now.

7. I have bestowed my thoughtful consideration on the contentions raised on both sides.

8. Perusal of the record shows that according to management claimant Khumb Raj misbehaved with the J.E. by giving beating to him and demanded Rs. 500 from him which amounts to grave misconduct and was unbecoming a government servant. He was issued show-cause notice. Shri B. K. Bansal who reported matter to senior officer stated that the applicant/claimant was also asked to explain as to why disciplinary action may not be taken against him and to furnish reply vide letter dated 11-8-92 issued by Executive Engineer but it appears that the notice was not received by him initially on two/three occasions and he furnished reply dated 17-8-92 which appears to have been received on 18-8-92. However, he was removed from service on the same day vide order dated 18-8-92 as he failed to furnish any reply. Notice dated 14-8-92 was admittedly received by him (workman), reply dated 17-8-92 to the same was received in the office on 18-8-92 as per statement of MWI Shri B. N. Mandal Assistant Engineer. The workman was served with show-cause notice according to claim statement on 17-8-92. He filed reply on 18-8-92 and he was dismissed on 18-8-92. Thus it is apparent on record that his explanation dated 18-8-92 was not taken into consideration even otherwise the opportunity accorded to him to show-cause or explain his conduct was not sufficient on fact of record.

9. In addition to the above discharge order is not an order of discharge simpliciter rather it is penal in nature. A regular enquiry as per rule should have been initiated against him by giving him adequate and proper opportunity and asking him to show-cause and explain his conduct which has not been done in this case. He should have been given proper opportunity. In my view he

has not been given any just fair and reasonable opportunity. No enquiry was conducted. Action of the management/respondent terminating service of the workman is not justified and legal and deserves to be set aside in view of the S.C. decision reported in D. K. Yadav Vs. J.M.A. Industries Ltd., and reported in 1993-II LLJ 969 and Lab. I.C. 1377, Nar Singh Pal Vs. Union of India and 1991 Lab. I.C. 619 MCD Versus Praveen Kumar Jain and others referred to above. The workman has claimed in his statement of claim as well as in his affidavit that he was appointed as Beldar on 7-6-85 and worked till 18-8-92 when his services were terminated. In W. S. it is stated that the workman was hired on daily wages by management but this fact is not so stated by the management in affidavit of Shri B. N. Mandal in evidence of the management as there is nothing on record to show that he was employed gainfully elsewhere during the period since 18-8-92 when his services were terminated till now. Hence it is found that workman was engaged as Beldar on muster roll w.e.f. 7-6-85 till his services were terminated on 18-8-92. Hence he is entitled to 50% of back-wages in the scale 750-940.

10. In view of the above discussions I am of the opinion that the action of the management in terminating the services of workman is not proper, legal and justified and he is entitled to 50% back wages in the scale of 750-940. Award is given accordingly.

Dated : 15-7-04.

S. S. BAL, Presiding Officer

नई दिल्ली, 26 जुलाई, 2004.

का.आ. 2003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 39/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-2004 को प्राप्त हुआ था।

[सं० एल.-29012/14/01-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th July, 2004

S.O. 2003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/01) of the Central Government Industrial Tribunal-cum Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on 26-7-2004.

[No. L-29012/14/01-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BANGALORE**

Dated : 5th July, 2004

PRESENT : SHRI A. R. SIDDIQUI, Presiding Officer

C.R. NO. 39/01

I Party :

Shri Dorairaj,
C/o Sh. Savridoss. S,
Bharat Gold Mines General Workers
Union, CITU, Marikuppam Post,
KGF-563119,
Karnataka.

Workman

II Party :

The Managing Director,
Bharat Gold Mines Limited,
Suvarna Bhawan,
Oorgaum,
KGF—563120,
Karnataka.

Management

APPEARANCES :

I Party : K. V. Sathyanarayana
Advocate

II Party : A. S. Boppanna
Advocate

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-29012/14/2001-IR(M) dated 29-5-2001 for adjudication on the following schedule :

SCHEDULE

"Whether Shri Dorairaj, former workman of Afforestation. K.G.F. is justified in claiming continuous employment under the management of M/s. Bharat Gold Mines Ltd.? If yes, to what relief the workman is entitled to."

2. The case of the I Party as made out in Claim Statement briefly stated is that he was employed in the II Party management and had put in 18 years of unblemished services, that the management discontinued services of the I party on the ground of superannuation reaching the age of 49 years though the age of retirement in the management is 60 years; that the management issued a notice of age of retirement alleging that he reached the age of retirement i.e. 58 years falsely as list date of birth was recorded wrongly by the Management without the

knowledge of the I party. In fact the date of birth recorded by the management was disputed of the I party by producing the birth certificate issued by the concerned Village Panchayat authority, that the management issued the age of retirement notice dated 14-10-1999 asking her to stop away from the services on the very next date i.e. 15-10-1999 in violation of Section 27 of the BGML Standing Orders; that the age of retirement notice said to be based on the date of birth recorded in the PF records by the Secretary Board of Trustee was questioned as fallacious date of birth without the knowledge of the I party workman. Therefore, the action of the management in terminating the services of the I party on the ground that he attained the age of superannuation is illegal and liable to be set aside.

3. The Management by its Counter Statement first of all challenged the very relationship between it and the I party contending that the I party was not its employee who worked under a contractor. It was contended that it is the contractor who engages the I party and it is contractor who stopped arranging of I party at the age of 58 years; that the Contractor under whom the I party worked has alleged in the notice of retirement that he reached the age of retirement at 58 years since the nature of job of the I party required age of retirement at 58 years since the nature of job of the I party required physical evidence to work and accordingly her age of superannuation was fixed at 58 years. The management denied the allegation that the I party was retired at the age of 49 years, however admitting the fact that the retirement age of the Permanent Employees of the Management is 60 years. It was contended that the management since has large number of Permanent surplus employees, there is no scope for absorption of the I party who is contract labour engaged for afforestation work. Therefore, the management requested the court to dismiss the reference.

4. Keeping in view the point of reference the burden to prove the fact that the I party was justified in claiming continuous employment under the Management and being so to what relief he was entitled to? This burden of proof cast upon the shoulder of I party has not been discharged. No Oral or Documentary evidence in support of the averments made in the Claim Statement despite several opportunities given to him to do so. This conduct on the part of the I party speaks the fact that he is no more interested in prosecuting her claim. Therefore the court is left with no alternative but to hold that the I party fails to substantiate the claim and hence reference is liable to be rejected. Hence, the following award :

ORDER

Reference is dismissal. No cost.

(Dictated to the LDC transcribed by him, corrected and signed by me on 5th July, 2004)

A R SIDDIQUI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2004

का.आ. 2004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 38/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-07-2004 को प्राप्त हुआ था।

[सं० एल.-29012/16/01-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th July, 2004

S.O. 2004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/01) of the Central Government Industrial Tribunal-cum Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on 26-07-2004.

[No. L-29012/16/01-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BANGALORE

Dated : 5th July, 2004

PRESENT: SHRI A. R. SIDDIQUI
Presiding Officer

C.R. No. 38/01

I Party :

Smt. Menasamma,
C/o Sh. Savridoss. S.,
Bharat Gold Mines General Workers
Union, CITU, Marikuppam Post,
K.G.F. 563119
Karnataka.

.....Workman

II Party

The Managing Director,
Bharat Gold Mines Limited,
Suvarna Bhawan,
Oorgaum,
KGF—563120,
Karnataka.

.....Management

Appearances :

I Party : K. V. Sathyanarayana
Advocate

II Party

A. S. Boppana
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-29012/16/2001-IR(M) dated 29-05-2001 for adjudication on the following schedule :

SCHEDULE

"Whether Smt. Menasamma, former workman of Afforestation, K.G.F. is justified in claiming continuous employment under the management of M/s Bharat Gold Mines Ltd.,? If yes, to what relief the workman is entitled to?"

2. The case of the I Party as made out in Claim Statement briefly stated is that she was employed in the II Party management and had put in 18 years of unblemished services, that the management discontinued services of the I party on the ground of superannuation reaching the age of 56 years though the age of retirement in the management is 60 years; that the management issued a notice of age of retirement alleging that she reached the age of retirement i.e. 58 years, falsely as her date of birth was recorded wrongly by the Management without the knowledge of the I party. Infact the date of birth recorded by the management was disputed by the I party by producing the birth certificate issued by the concerned Village Panchayat authority; that the management issued the age of retirement notice dated 14-10-1999 asking her to stop away from the services on the very next date i.e. 15-10-1999 in violation of Section 27 of the BGML Standing Orders; that the age of retirement notice said to be based on the date of birth recorded in the PF records by the Secretary Board of Trustee was questioned as fallacious date of birth without the knowledge of the I party workman. Therefore, the action of the management in terminating the services of the I party on the ground that he attained the age of superannuation is illegal and liable to be set aside.

3. The Management by its Counter Statement first of all challenged the very relationship between it and the I party contending that the I party was not its employee who worked under a contractor. It was contended that it is the contractor who engages the I party and it is contractor who stopped engaging of I party at the age of 58 years; that the Contractor under whom the I party worked has alleged in the notice of retirement that she reached the age of retirement at 58 years since the nature of job of the I party required physical evidence to work and accordingly her age of superannuation was fixed at 58 years. The management denied the allegation that the I party was retired at the age of 56 years, however admitting the fact

that the retirement age of the Permanent Employees of the Management is 60 years. It was contended that the management since has large number of Permanent surplus employees, there is no scope for absorption of the I party who is contract labour engaged for afforestation work. Therefore, the management requested the court to dismiss the reference.

4. Keeping in view the point of reference the burden to prove the fact that the I party was justified in claiming continuous employment under the Management and being so to what relief she was entitled to? This burden of proof cast upon the shoulder of I party has not been discharged. No Oral or Documentary evidence in support of the averments made in the Claim Statement despite several opportunities given to them to do so. This conduct on the part of the I party bespeaks the fact that she is no more interested in prosecuting her claim. Therefore the court is left with no alternative but to hold that the I party fails to substantiate the claim and hence reference is liable to be rejected. Hence, the following award :

ORDER

Reference is dismissed. No cost.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 5th July, 2004)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 26 जुलाई, 2004

का.आ. 2005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 44/01) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-7-2004 को प्राप्त हुआ था।

[सं० एल.-29012/15/2001-आई.आर. (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th July, 2004

S.O. 2005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/01) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on 26-7-2004.

[No. L-29012/15/2001-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BANGALORE

Dated : 5th July, 2004

PRESENT: SHRI A. R. SIDDIQUI
Presiding Officer

C.R. No. 44/01

I Party

Smt. Narasamma,
C/o Sh. Savridoss. S.
Bharat Gold Mines General Workers Union,
CITU, Marikuppam Post,
KGF-563119,
Karnataka.

II Party

The Managing Director,
Bharat Gold Mines Limited,
Sivarna Bhawan,
Oorgaum,
KGF-563120,
Karnataka.

Appearances

I Party	:	K. V. Sathyanarayana Advocate
II Party	:	A. S. Boppanna Advocate

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-29012/15/2001-IR(M) dated 8-6-2001 for adjudication on the following schedule :

SCHEDULE

“Whether Smt. Narasamma, former workman of Afforestation, K.G.F. is justified in claiming continuous employment under the management of M/s. Bharat Gold Mines Ltd.,? If not, to what relief the workman is entitled to?”

2. The case of the I Party as made out in Claim Statement briefly stated is that she was employed in the II Party management and had put in years of unblemished services (Number of years not specified); that the management discontinued services of the I party on the ground of superannuation reaching the age of— years (Age not specified) though the age of retirement in the management is 60 years; that the management issued a notice of age of retirement alleging that he reached the age

of retirement i.e. 58 years, falsely, as her date of birth was recorded wrongly by the Management without the knowledge of the I party. In fact, the date of birth recorded by the management was disputed by the I party by producing the birth certificate issued by the concerned Village Panchayat authority; that the management issued the age of retirement notice dated 14-10-1999 asking her to stop away from the services on the very next date i.e. 15-10-1999 in violation of Section 27 of the BGML Standing Orders; that the age of retirement notice said to be based on the date of birth recorded in the PF records by the Secretary, Board of Trustee was questioned as fallacious date of birth without the knowledge of the I party workman. Therefore, the action of the management in terminating the services of the I party on the ground that she attained the age of superannuation is illegal and liable to be set aside.

3. The Management by its Counter Statement first of all challenged the very relationship between it and the I party contending that the I party was not its employee who worked under a contractor. It was contended that it is the contractor who engages the I party and it is contractor who stopped engaging of I party at the age of 58 years; that the Contractor under whom the I party worked has alleged in the notice of retirement that he reached the required physical evidence to work and accordingly his age of superannuation was fixed at 58 years. The management denied the allegation that the I party was retired at the

age of 49 years, however, admitting the fact that the retirement age of the Permanent Employees of the Management is 60 years. It was contended that the management since has large number of Permanent surplus employees, there is no scope for absorption of the I party who is contract labour engaged for afforestation work. Therefore, the management requested the court to dismiss the reference.

4. Keeping in view the point of reference the burden to prove the fact that the I party was justified in claiming continuous employment under the Management and being so to what relief he was entitled to? This burden of proof cast upon the shoulder of I party has not been discharged. No Oral or Documentary evidence in support of the averments made in the Claim Statement despite several opportunities given to her to do so. This conduct on the part of the I party bespeaks the fact that she is no more interested in prosecuting her claim. Therefore, the court is left with no alternative but to hold that the I party fails to substantiate the claim and hence reference is liable to be rejected. Hence, the following award:

ORDER

Reference is dismissed. No cost.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 5th July, 2004)

A. R. SIDDIQUI, Presiding Officer